



## Area Planning Committee (Central and East)

**Date** Tuesday 10 December 2024  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 12 November 2024  
(Pages 3 - 20)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee  
(Central and East)
  - a) DM/24/00380/FPA - Site of former Easington Maintenance Depot to the rear of 31 to 37 Peter Lee Cottages, Wheatley Hill, DH6 3RH (Pages 21 - 60)  
Full planning application for the erection of 73 no. 2, 3 and 4 bedroom two-storey dwellings, bungalows and associated infrastructure.
  - b) DM/24/01875/FPA - 28 Herons Court, Gilesgate, Durham, DH1 2HD (Pages 61 - 78)  
Change of use from a C3 Dwellinghouse (Use Class C3) to a HMO (Use Class C4).
  - c) DM/24/02792/AD - How Do You Do, York Road, Peterlee, SR8 2DP (Pages 79 - 90)  
Display of 2 no. externally illuminated fascia signs, 2 no. non-illuminated ACM panels, 4 no. poster cases and window vinyls/manifestations.

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  
2 December 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, 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 **Council Chamber, County Hall, Durham** on **Tuesday 12 November 2024** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors L Brown, J Cosslett, S Deinali, J Elmer, L Fenwick (substitute for J Clark), R Manchester and K Shaw

**Also Present:**

Councillors V Anderson and J Blakey

**1 Apologies for Absence**

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

**2 Substitute Members**

Councillor L Fenwick substituted for Councillor J Clark.

**3 Minutes**

The minutes of the meeting held on 8 October 2024 were confirmed as a correct record by the Committee and signed by the Chair.

**4 Declarations of Interest**

Councillor L Brown noted she was a Member of the City of Durham Parish Council and was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to Item 5b - DM/24/01551/FPA - 37-38 Silver Street.

The Chair, Councillor D Freeman noted he was a Member of the City of Durham Parish Council and 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 Item 5b - DM/24/01551/FPA - 37-38 Silver Street.

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

The Chair noted Items 5c - DM/24/02200/FPA and 5d - DM/24/02161/LB, relating to 90 Gilesgate, Durham had been withdrawn.

### **a DM/20/02046/FPA - Grange Farm, Coxhoe, Durham, DH6 4HH**

The Senior Planning Officer, Callum Harvey 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 the demolition of existing farm outbuildings and erection of 83 dwellings (Amended description 14/05/2024) and was recommended for approval, subject to the conditions and s106 Legal Agreement as set out in the report.

The Senior Planning Officer referred to aerial photographs of the site, highlighting two fields which had previously been in agricultural use, and a tree-lined former railway to the west of the site with open fields beyond. He explained there were residential dwellings to the north, east and southeast. He noted Coxhoe Park to the southwest of the site, and that a public right of way (PROW) ran through the centre of the site. He added the existing agricultural buildings in the northeast corner of the site would be removed as part of the proposals. It was explained that access would be taken via Coronation Terrace, and a Sustainable Drainage System (SuDS) would be located at the southwest corner of the site.

The Senior Planning Officer noted that since the initial application submitted in 2020 there had been several amendments to the scheme, including an increase in garden depths, additional parking bays and a reduction by nine dwellings from the initial scheme to accommodate those changes, leaving the current 81 proposed dwellings. He explained as regards 12 affordable units being offered off-site, secured via s106 Legal Agreement. He referred Members to the extent of adopted highways in the area and proximity of Coxhoe Park. He explained that Officers had agreed a reduced amount of public space within the application site in this particular instance, on the basis of the adjacent Coxhoe Park to the south, and that off-site provision had instead been agreed, to be secured via s106 Legal Agreement.

The Senior Planning Officer noted four trees alongside the PROW, with three having been included in a recent Tree Preservation Order (TPO), whilst the fourth tree did not warrant a TPO due to its poor condition. The Committee were referred to photographs of a nearby bus stop close to the proposed access and it was explained that it would require relocation as part of the proposals.

The Senior Planning Officer explained that there had been objections received from Coxhoe Parish Council, Coxhoe Primary School and a Local County Councillor to the application, citing a lack of s106 contribution in relation to Primary School Places. He noted that there had been no other concerns raised by statutory consultees. He explained that the Council's Drainage Section had not objected to the scheme, however, had raised concerns in terms of lack of sufficient integrated drainage across the site, therefore the proposals were in conflict with County Durham Plan (CDP) Policy 35(d). He explained that there had been objections raised by three members of the public, with issues including impact on highway safety, drainage, and ecology.

The Senior Planning Officer noted there were some further updates since the publication of the agenda papers. He explained that within the report pack, within the section 'Statement of Proactive Engagement', paragraphs two and three actually referred to a separate development and had been erroneously included in the report and therefore should be ignored. He added that the applicant had clarified their intention to use off-site credits to achieve a Biodiversity Net Gain (BNG), and the Ecology Officer had no concerns with the proposed approach.

The Senior Planning Officer explained that the applicant had confirmed, in plans submitted, locations for air-source heat pumps and noted the positions proposed were deemed acceptable. In respect of affordable rent, levels of discount for the Discount Market Sale units, to ensure they are below the one hundred and forty thousand pounds cap, had been agreed with Officers as being: a twenty percent discount for the two-bedroom dwellings; and a twenty five percent discount for the three-bedroom dwellings. It was added that the Affordable Housing Officer had raised no concerns with those agreed discounts.

The Senior Planning Officer noted that in respect of Education, as set out in the report, whilst Coxhoe Primary was the nearest Primary School to the site, the Council's Education Officer was mindful of the existing capacity at other primary schools within a two-mile radius of the site, those being at Kelloe, Bowburn, and West Cornforth. He explained that the two-mile radius method was the County Council's adopted policy when calculating financial contributions toward the capacity of Primary Schools, when assessing planning applications.

He added that, due to the identified capacity at the other schools within two miles of the site, the Education Officer advised that the County Council could not reasonably require a financial contribution from the developer under this planning application. The Senior Planning Officer noted that to do so would conflict with Paragraph 57 of the National Planning Policy Framework (NPPF) as well as conflict with Policy 25 of the County Durham Plan (CDP).

The Senior Planning Officer explained that, following the publication of the Committee Report, the Parish Council had submitted a rebuttal to the Education Officer's position, querying the current and forecasted pupil roll numbers. He added that the Parish Council had also highlighted the previously approved developments in the local area and the impact those would have on capacity. He noted that the Education Officer had reviewed the Parish Council submission and confirmed that the numbers which were stated in within the Committee Report were correct. He explained that the Education Officer reiterated that there was sufficient capacity at Primary schools within two miles of the site and therefore the County Council could not reasonably require a financial contribution from the developer under this planning application.

The Senior Planning Officer concluded that while there had been some concerns in respect of layout and loss of Grade 3A Agricultural Land, they were not felt sufficient to justify refusal and therefore the application was recommended for approval, subject to the s106 Legal Agreement and conditions as set out within the report.

The Chair thanked the Senior Planning Officer and noted that Parish Councillor S Dunn, Chair of Coxhoe Parish Council, had circulated some e-mail correspondence between the Parish Council and the Education Officer for consideration by the Committee. He asked Parish Councillor S Dunn to speak in relation to the application.

Parish Councillor S Dunn thanked the Chair and Members and noted that he was making representations on behalf of the Parish Council and reflecting the views of local residents. He explained that it was not felt fair that there were no developer contributions relating to primary education, contrary to NPPF Paragraph 57 and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

He explained that paragraphs 59 to 72 of the Committee Report set out the Parish Council's objections to the application, with the Parish Council challenging the two-mile rule, noting that while the two-mile criteria may be deemed acceptable in urban areas, the Parish Council felt that for young children and their parents to be expected to walk 1.7 miles to school, between villages on fast, and at times unlit, busy country roads was an unreasonable expectation. He added that local village school was only 600 metres away from the proposed development.

Parish Councillor S Dunn noted that initially, the Education Officer had stated the original application submitted in 2020 had required a s106 contribution of £441,090 in respect of primary school places. He noted that subsequently, updated comments from the Education Officer in July 2024 stated that a contribution from developers was 'no longer required', there being primary school places available at schools within two miles. He noted that the Parish Council would ask the Committee to request a voluntary primary s106 contribution from the developer although according to their current policy, the Council could not require it.

Parish Councillor S Dunn noted that within his e-mail of 5 November 2024, questions were raised as regards the number of pupils on roll at the local primary schools, with information gathered from the schools themselves differing from those provided by the Education Officer. He added that the Education Officer had confirmed their numbers, noting 1,044 combined capacity and a maximum of 789 pupils on roll over the next 10 years. Parish Councillor S Dunn noted that figures obtained from the schools directly gave a combined net capacity of 1,251 and with 1,021 on roll currently. He added that was 207 fewer spaces available, with 232 more pupils on roll. He noted he did not think the figures provided by the Headteachers were wrong. He added that the Education Officer had not taken into account additional development, noting 898 properties had been approved or were pending within the area. He added that this latent demand would saturate and exhaust any spare capacity within the primary schools in the area.

Parish Councillor S Dunn noted that paragraph 291 of the Committee report stated that '*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*'. He added that paragraph 292 set out that '*the contribution which has been requested by Councillor Anderson is not considered necessary to make the development acceptable in planning terms*' and '*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*'.

Parish Councillor S Dunn noted those assertions were on the basis of factually incorrect information, and therefore the Committee should take that into consideration when looking at the Officer's conclusions, especially at paragraph 352 of the Committee Report. He reiterated that the Parish Council would ask the Committee request that the developer volunteer s106 contributions or that the Committee defer the application in order to request contributions or refuse the application as there was not adequate contributions in relation to primary education.

The Chair thanked Parish Councillor S Dunn and asked Councillor V Anderson, Local Member, to speak in relation to the application. Councillor V Anderson noted she fully supported the comments made by Parish Councillor S Dunn. She explained she had written to the Committee to ask they request that the developer voluntarily contribute s106 monies in relation to primary school places. She added that Coxhoe Primary School was not fit-for-purpose, with the school being at capacity, with one class taught in a corridor, another on a mezzanine floor. She noted that was highly unacceptable. She emphasised that the Headteacher, Teachers and all the Staff were doing a tremendous job, however, the school was at a crossroads, it needed extra space and needed financial contributions from developers. Councillor V Anderson explained that the school hall did not have capacity for all pupils on roll. She asked the Committee if they would let their primary aged child walk the proposed routes to the 'alternative schools', noting unfit pathways, the busy A1(M) main roundabout and busy roads. She added that all children from Coxhoe should be able to attend their local school, with developers contributing to places accordingly.

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

Councillor J Blakey explained that she fully supported the comments from the Parish Council and local residents. She asked as regards 'proactive engagement', noting that she, and other Local Members, had not been consulted or engaged with by the developer. She added that one point of access for entry and exit on one the busiest stretches of main road could lead to problems. She explained that locals had begged for improvements to the road over the last 10 to 12 years. In respect of s106 contributions, she reiterated the point that local children needed to be with their local friends at the school in the village, and to separate children by sending them to other schools was something that could break their resilience. She urged the Committee to take on board the concerns raised by objectors.

The Chair thanked Councillor J Blakey and asked Jayne Bartle, Headteacher of Coxhoe Primary School, to address the Committee.



J Bartle explained she had been Headteacher at Coxhoe Primary School since 2018, and Deputy Headteacher from 2009 to 2018. She noted the vast majority of parents in the area sent their children to their local school. She noted that the school had one form of entry in Reception, and some children at the edge of the village had missed out on a place at the school due to the distance criterion. She explained that the School Governors, School and Education Department at Durham County Council (DCC) had all worked together regarding remodelling, with designs for extensions to increase capacity. She added that the main school was an old building, recently having celebrated its centenary.

She explained that the Published Admission Number (PAN) was 355 technically, however, the historic nature of the site, with large lobby spaces, meant that not all the space considered was actual teaching space.

J Bartle explained that a third extension had been designed, to be funded by developer contributions, if requested. She noted the approximate £375,000 s106 contribution from the Barratts development at Bogma Farm, and initial estimate of approximately £440,000 from the proposed development and noted the importance in terms of growing the school.

J Bartle noted the DCC policy change, however, the School were concerned that parents from within the village were not eligible for a school place at their local school and were required to attend other schools outside of the village, travelling along walking routes that were not, in their opinion, safe. She explained that 18 Year 3 pupils being taught within a former corridor and that following a recent visit by the Head of Education who had recognised the need for additional space and toilets. She reiterated there was a need for developer contributions to meet the needs of the village, to help build for the future. She noted the school was at heart of the village and all village children should be able to attend the school.

The Chair thanked J Bartle and asked Chris Dodds, Senior Land Director representing Gleeson Homes, the Applicant, to speak in support of their application.

C Dodds explained that Gleeson Homes specialised in entry-level housing for low to middle earners, often first-time buyers, and had over 80 similar sites across the North East. He noted the proposals were for 83 homes, with care having been taken to price those homes affordably for the local market, with the most affordable being capable for those earning minimum wage and referred to the affordable options within the scheme. He added that Gleeson also offered savings in relation to energy bills, with a 49 percent reduction to heating costs, with an approximate saving of £1,300 per year.

C Dodds emphasised the contributions that were proposed, with approximately £528,000 in total in relation to open space, GP provision, secondary school capacity, SEND provision, and affordable homes. He explained as regards the sponsorship work of Gleeson in supporting local junior sports clubs, as well as initiatives in terms of apprenticeships and sustainability in addition to the s106 contributions for the local community. He concluded by noting he hoped the scheme, on a sustainable site, would be supported by Members, and added that Gleeson were bound by the NPPF and recommendation of the Education Officer and thanked the Officers for their work and professional manner in dealing with the application.

The Chair thanked C Dodds and asked Officers to respond to the points raised by the speakers, including those raised by Parish Councillor S Dunn, and Councillor J Blakey in relation to highway safety.

The Senior Planning Officer noted the Parish Council disagreed with the numbers as provided by the Education Officer. He noted that, as per the e-mails Members were provided with, the Education Officer had reiterated that the numbers within the report were correct. He explained that the application had initially been submitted in 2020, prior to the new school at Bowburn opening in 2021-2022. He explained that therefore Officers could not require a voluntary contribution, as per NPPF Paragraph 57. The Senior Planning Officer noted that the Parish Council had referred to 100 dwellings pending at Cornforth Lane, however, as that application was still pending, they could not be taken into consideration. In relation to the Highways matters raised, the Senior Planning Officer noted he would defer to the Principal DM Engineer, David Battensby. He added that the two-mile radius policy when calculating Primary School capacity through the Planning process was adopted by the Council's Cabinet in 2016.

The Lawyer (Planning and Highways) Neil Carter, noted the dispute in respect of numbers at the local primary schools, with the official figures from the Education Officer not aligning with those set out by Parish Councillor S Dunn. He noted that there were clear rules in terms of s106 and where it can and cannot apply, as set out within the Community Infrastructure Levy Regulations. He noted the key requirement and test was 'if necessary to make the development acceptable' and Officers had determined it was not necessary, based upon the numbers provided by the Education Officer. He added that if it failed that test, the Authority could not request any s106 in respect of primary school places. He noted that the developer could volunteer such funds, however, if they did so the Committee could not afford any weight to that offer in the determination of the application.

The Principal DM Engineer noted that proposed access was fully assessed and met all required standards, including in terms of visibility and capacity.

He noted the single entry/exit was acceptable, with no requirement for double access. He added in terms of the safety of the footways at the Bowburn interchange, the A1(M) had a signalised crossing, with the routes to Bowburn and Cornforth being fully lit, while the routes to Kelloe and Cassop were not fully lit.

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

Councillor L Brown noted, if the Committee were to approve the application, she would ask for an amendment to Condition 14 in terms of start time for construction works to be 0800.

She added that the discrepancy between the pupil numbers cited by the Education Officer and the Parish Council was very concerning, adding it would have been beneficial if the Education Officer had been at Committee to speak on the matter. She added she was not aware of number as set out in the 2021 Census being less than the numbers from applications having been granted.

Councillor J Elmer explained he wished to drill down further into the primary school numbers more. He noted the Parish Council had spoken to Headteachers at the local schools and obtained the numbers on roll. He added that Planners had consulted with the Education Department, with their figures seemingly very inaccurate if differing from the numbers Headteachers were reporting as being on roll at their schools. He asked whether the Committee were obliged to accept the Education Department and Census data. The Senior Planning Officer noted that the Local Education Authority (LEA) were the experts in terms of those on roll and projections and therefore the Committee should afford their advice significant weight. He reiterated that the discrepancy had been noted, with the Education Officer confirming they were confident as regards the numbers they provided. Councillor J Elmer asked if their calculations had been made using previous Census data. The Principal Planning Officer, Graham Blakey, noted that the Pupil Place Planning (PPP) Document had last been updated in 2023, and was subject to annual review and Department for Education national figures were also considered. He noted that therefore numbers were based upon the 2021 Census as well as those annual documents and updates. He reiterated that as regards Coxhoe, there were 1,044 places across the local schools, with Bowburn having two forms of entry. He concluded by noting that the evidence base was the PPP Document and therefore the position was as had been set out by the Lawyer (Planning and Highways).

Councillor S Deinali noted she had met with the Corporate Director of Children and Young People and he had made reference to pupil projections and noted smaller cohorts, noting some schools may struggle in future in terms of numbers, with decreasing birth rates. However, she noted that conversely primary schools were struggling in terms of funding and noted she felt any request the Committee could make in that regard could be helpful. The Senior Planning Officer noted the developer was aware of the request as suggested by the Parish Council, however, the Local Authority was not able to make such a request for the reasons stated. The Lawyer (Planning and Highways) reiterated that the Committee could not require any such contribution, affirming that if the developer did volunteer then the Committee could not afford that weight in the decision-making process.

Councillor S Deinali noted the s106 contributions as set out for SEND provision and asked if Coxhoe Primary School would be able to access that funding.

The Senior Planning Officer noted that contribution had been agreed, in principle, by the developer. The Principal Planning Officer noted that LEA took a countywide approach to SEND provision, and added this was set out in the recent Development Viability, Affordable Housing and Financial Contributions Supplementary Planning Document (SPD) 2024, with the LEA to look to draw down funds and allocate accordingly in relation to SEND provision.

In reference to the methodology in determining projections, Councillor J Elmer asked whether, given there were figures obtained directly from the schools that did not match with projections, if the application were to go ahead, was the Committee effectively forcing children to walk 1.75 miles along a busy main road. He added that it was more likely it would result in additional car use, forcing car ownership and increasing associated car mileage, in direct conflict with CDP Policy 33 in respect of carbon emissions. He noted that Coxhoe Primary School was the closest school and could accommodate all pupils if the extensions referred to were made. He concluded by noting that the applicant had initially expected to pay s106 monies in respect of primary school places and therefore he felt it was a monumental, wasted opportunity. The Chair noted that expectation had been a few years ago and now, with the new school at Bowburn, the situation had changed.

The Principal Planning Officer noted that had the £10million new school at Bowburn not been built, then s106 contributions would have been requested in relation to the application, however, the PPP Document now suggested there was sufficient capacity within two miles, as per LEA policy.

He reiterated that Officers' opinion was that any request by Committee for s106 contributions in relation to primary school places would fail the Community Infrastructure Levy test and could be challenged.

Councillor J Cosslett noted the 1.75-mile journey referred to by Councillor J Elmer was estimated to take around 26 minutes by foot, suggesting Councillor J Elmer was correct and that therefore parents would be likely to travel by car instead.

Councillor S Deinali noted the point made by Councillor J Elmer in relation to projections and the numbers given by the schools directly in terms of pupils on roll. She noted the development was not yet built, however, it needed to be accounted for in terms of impact. She explained she was very disappointed that Members could not afford weight to this and added that, as a teacher herself, she understood the pressures faced by schools. She noted that despite that, she could not see any way to overturn the recommendation.

Councillor K Shaw explained he shared the concerns and disappointment in respect of the s106 contributions in respect of primary school places, however, each application had to be looked at on its own merits. He asked as regards the two other developments referred to, and whether they been required to contribute s106 monies. The Principal Planning Officer noted the Barratt development at Bogma Farm had been agreed pre-COVID-19 and the scheme was nearly completed, and therefore was prior to the new school at Bowburn and had been required to contribute in relation to primary school places. He noted the Miller Homes development was for a similar number of properties as the application being considered and therefore it may also not require contributions in terms of primary school places, though that was to be determined through its own application.

Councillor L Brown noted that it seemed completely wrong, and asked if there were any way to refuse the application in terms of Policy 33, encouraging car use. The Senior Planning Officer noted his strong advice was as per the report, a recommendation for approval. The Principal Planning Officer noted that he felt the two-mile radius within LEA Policy would be referenced by a Barrister at any subsequent appeal of a refusal by Committee.

The Chair noted the recommendation was for approval and added that while that was the case, it was clear all Members were very unhappy. He added that there seemed little merit in deferral of the application, and it had been made clear the Committee could not require the developer contribute s106 monies in relation to primary school places.

Councillor L Fenwick noted while she sympathised with the position of the school, there was a need for affordable housing and therefore she would move approval of the application. Councillor L Brown reiterated that she was very unhappy and felt the developer could have offered a contribution, however, as there were no grounds for refusal she would, with a heavy heart, second approval.

Councillor J Elmer added he felt there was little option for the Committee, however, the matter had exposed a contradiction between Local Planning Authority (LPA) and LEA Policy, with planning policy encouraging less car use, and the two-mile LEA policy forcing the exact opposite. Councillor S Deinali noted the two-mile radius related to the walking to school policy.

Upon a vote being taken it was:

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions and s106 Legal Agreement as set out within the report.

**b DM/24/01551/FPA - 37-38 Silver Street, Durham, DH1 3RD**

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 the conversion of lower ground floor and part of the ground floor from retail (E) to form 1no small HMO (C4) and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted the context of the site within the Conservation Area and setting of the World Heritage Site of the Castle and Cathedral. She noted no objections from the Highways Section and added there had been objections received from the City of Durham Parish Council. She noted their objections were summarised within the report and a representative was at the meeting, however, their main concerns related the sizes of bedrooms No. 2 and No.3, light, bin storage, need and fire escape meeting requirements.

The Planning Officer noted the Houses in Multiple Occupation (HMO) Licensing Team had noted the property did not require a licence, and HMO Data noted 67.7 percent HMOs within a 100-metre radius. She added there were no objections from the Environmental Health or Design and Conservation Teams.

She explained there had been a letter of objection from the City of Durham Trust, referencing Nationally Described Spaces Standards (NDSS) and fire safety.

The Planning Officer concluded by noting that the application was acceptable in principle and subject to s106 contribution and conditions as set out in the report the application was recommend for approval.

The Chair thanked the Planning Officer and asked Parish Councillor G Holland, speaking on behalf of the City of Durham Parish Council, to address the Committee.

Parish Councillor G Holland thanked the Chair and Committee and explained that when the Parish Council called the application to Committee it was based on the Parish Council's past experiences with the provision of HMOs in our city. He added that in this particular application, there were uncertainties in the documents available to the Parish Council, relating mainly to the NDSS and HMO regulations and their interpretation.

He noted that 37-38 Silver Street was yet another proposed HMO conversion adding that, in principle, the Parish Council supported this type of development over the shop as it helped to prevent the ongoing loss of vital family housing in the city, and it also made effective use of little used rooms in an area where the business rents were very high. He noted that fundamentally, it made commercial sense and the Parish Council supported it.

He added that this meant that, in such localities, a few of the normal constraints of Policy 16 could be set aside, however, other policies could not. He noted that relaxing one policy did not mean that one should let everything go or accept second best, the duty of care remained the same.

Parish Councillor G Holland explained that, in judging applications such as this one, one relied upon CDP Policies 29 and 31 and any potential harm caused to the living conditions of future occupants. He added that outweighed any private benefits that a change of use would achieve. He noted that, in particular, Policy 29 stated that "*all new residential development will be required to comply with the NDSS*". He added that, to the Parish Council, it seemed that, far too often, for the sake of convenience, that basic tenet had been set aside.

It was explained that the Parish Council noted that, whereas it meets the NDSS in terms of its Gross Internal Area, the proposed internal space sizes for Bedrooms 2 and 3, as shown on the plans and elevations, seemed barely satisfactory.

Parish Councillor G Holland noted that, as measured, the Design and Access Statement showed Bedroom 2 with an internal floor space of 8.83 square metres and Bedroom 3 with an internal floor space of 8.65 square metres, however, there were no room dimensions indicating how the measurement was made. He added that nor did the Statement explain whether those dimensions included the adjoining en-suite to each bedroom. He explained that, furthermore, the internal corridors within each bedroom should not have been included within the calculation, and that essential details were simply missing and as a result, the Parish Council concluded that the size of the proposed bedrooms could only provide minimal living conditions for no more than three future residents.

Parish Councillor G Holland explained that, to add confusion, the Officer's statement in paragraph 102 of their report that "*standards used to assess amenity under policy 29e of the CDP are not used rigidly*" and in paragraph 103 that "*the rigid application of NDSS is not considered appropriate*" was far from reassuring. He added that, to the Parish Council, not rigid meant flexible, with planning regulations therefore becoming no more than arbitrary guidelines. He asked where it was stated that the NDSS did not apply fully to HMOs?

He continued, explaining that the introduction to the NDSS stated quite clearly that it was "*suitable for application across all tenures*" and the application was new residential development, and therefore the regulations applied.

In terms of the living environment, Parish Councillor G Holland explained that the Design and Access Statement offered the comforting sentiment that "*all rooms have high levels of daylight*". He added that was odd, given the small size of the windows, all facing North West. He noted that indeed, the inadequate ventilation and light to some of the rooms had not been addressed and was unacceptable. He added that although not directly a Planning matter, it was up to Building Control to evaluate and approve, as set out in paragraph 128 of the report. He highlighted that the Council's own HMO standards must apply and the regular phrase that the HMO standards did not apply because the property did not need to be licensed was not true, the standards applied to all HMOs.

Parish Councillor G Holland explained that, of even greater concern in terms of health and safety, was that the HMO Officer had accepted that each of these small windows would act as the primary means of escape should a fire break out in the kitchen area. He asked if Officers could explain how those windows could possibly offer a safe and secure means of escape. He added that there was no clear indication about the arrangements for waste storage and disposal within applicant's so-called Refuse Strategy.



He emphasised that handling the extra output from the HMOs must be managed and maintained correctly.

Parish Councillor G Holland explained that at the very heart of matters, stood the protection of CDP Policy 29 and its associated regulations. He noted in this case there were also heritage concerns, especially in Silver Street, one of the oldest in the city, with the traditional timber features that exist contributing to the overall historic character and appearance of the host buildings.

He noted that the applicant's intention to remove the timber framed windows in favour of uPVC was justified by the Officer with the comment that "*while ordinarily timber would be expected, in this case the windows are within a modern rear basement elevation of low quality*". Parish Councillor G Holland noted that it was by such slow and measured steps that the historic integrity of our city was dismantled.

In summary, he noted that the Parish Council must treat such applications with caution because of inadequate information and the flexible interpretation of planning policies and regulations created uncertainty. He concluded by noting the Parish Council trusted that the Committee understood its position and had confidence in the Committee's ability to make appropriate decisions with regard to this and other such applications.

The Chair thanked Parish Councillor G Holland and asked the Planning Officer to address the points raised.

The Planning Officer noted that Bedroom No.2 was 9.0 square metres, with Bedroom No.3 being 8.8 square metres, not taking into consideration the corridors within each of the bedrooms, and as single occupancy met the NDSS.

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

Councillor L Brown proposed that, if minded to approve the application, the Committee amend the start time of construction to 0800. She referred to bin collection from the front of the property and noted a worry as regards timely return following collection. She asked as regards arrangements with existing students upstairs and noted that it was not preferable to have bins anywhere near to Fowlers' Yard. She asked for information relating to daylight and in respect of the safety issues raised.

The Planning Officer noted six bins, to be stored in the same location as previously, slightly extended to also include cycle storage.

Councillor L Brown asked if there could be a condition in relation to taking the bin back into the storage area after collection. The Principal Planning Officer, Paul Hopper noted that if the Committee felt there was insufficient information on the matter they could condition as regards further information. He noted that Officers felt there was sufficient information in this regard and that there was sufficient light. The Principal Planning Officer noted that any potential issues in respect of the fire escape would be addressed by colleagues from Building Control. The Chair noted there were already bins from the other student properties and, as a Local Member, he was not aware of any issues at the location to date. The Planning Officer noted that any conditions the Committee may wish to consider would apply to the application only, and not apply to bin storage arrangements for the first floor HMO accommodation which uses the bin/cycle storage area.

Councillor L Brown noted she was wary as there would be six bins, she felt a condition as regards emptying twice a week rather than once a week would be beneficial. The Principal Planning Officer noted bin storage was covered via Condition 4 within the report. He added that conditions relating to the times and frequency of emptying of the bins would likely fail the condition test, though further information could be sought on arrangements as part of the condition. Councillor L Brown noted she worried about a build up of food waste, especially in summer.

The Lawyer (Planning and Highways) noted concern as regards the reasonableness of any condition that would specify the number of times bins would require emptying, adding that concerns regarding bins could be better addressed via a management plan. Councillor L Brown noted that the issue was the Committee would not have sight of any management plan until after a decision was made. The Chair noted he would not support any move of bin collection, as it would make it more likely to result in bins sitting on Saddler Street.

Councillor J Elmer asked as regards comments from the Design and Conservation Team. The Planning Officer noted they had no objections, noting the loss of timber framed windows to the rear as the building was not a Listed Building or non-designated heritage asset. Councillor J Elmer noted that planning policy around ten years ago was such that timber-framed windows were required within the Durham City Conservation Area. The Planning Officer noted that the window could not be viewed by the public and uPVC was deemed acceptable. The Principal Planning Officer noted that given the quality of the uPVC type proposed, and the position and vantage, the proposals had been considered acceptable by the Design and Conservation Team. Councillor J Elmer noted that it was 'death by a thousand cuts' in terms of the impact upon heritage in the city. He asked as regards the fire escape, and whether that would be an issue that Building Control would come back upon.

The Principal Planning Officer noted that any change following this application would require a variation of condition application, with any such future potential application not having weight in relation to the current application. The Lawyer (Planning and Highways) agreed with the Principal Planning Officer, noting if Building Control required amendments, they would need to be regularised via a variation of condition application, or relevant process at that future time.

Councillor S Deinali moved approval of the application as per the Officer's recommendation, including a 0800 start time for works, and for additional information in respect of management plan for bins storage. The Principal Planning Officer noted Officers would make the necessary amendments to Condition 4 in relation to the bin storage.

Councillor L Fenwick seconded the motion for approval and upon a vote being taken it was:

**RESOLVED:**

That the application be **APPROVED**, subject to the conditions as set out within the report, with an amendment to Condition 4 in respect of further information relating to bin storage, and amendment to Condition 8 in respect of an 0800 start-time for construction work.

**c DM/24/02200/FPA - 90 Gilesgate, Durham, DH1 1HY**

The item was withdrawn.

**d DM/24/02161/LB - 90 Gilesgate, Durham, DH1 1HY**

The item was withdrawn.

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/24/00380/FPA
Full Application Description:	Full planning application for the erection of 73 no. 2, 3 and 4 bedroom two-storey dwellings and associated infrastructure.
Name of Applicant:	Gleeson Regeneration Ltd
Address:	Site of Former Easington Maintenance Depot to The Rear of 31 to 37 Peter Lee Cottages Wheatley Hill DH6 3RH
Electoral Division:	Trimdon and Thornley
Case Officer:	Steve France Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site consists of two parcels of land in the centre of Wheatley Hill, a former colliery village in the former Easington District of the County. The village sits north of the A181. 10km south-east of Durham City, and 5km south-west of Peterlee. The A181 connects Durham City to the A19, 3.5km east of the village.
2. The sites are within an area of local authority built housing, that first appears on the 1951/59 Ordnance Survey Map, with an older part of the village related to the colliery is a short distance north-east of this development. The linear village centre and parallel streets also includes retail and hot food establishments, a dentist, community centre, medical practices, a club and other commercial uses. There has been modern housing development both on the periphery of

the village to the north-east and south-west, and, by the applicant, on an infill site north of the western parcel of land subject to this application within the same estate. There are two primary schools within the village, one directly facing the east parcel of land from the north.

3. Both parcels of land are irregularly shaped, having been previously cleared of housing, and on the larger site a Council maintenance depot. The land has been grassed, tree planted and low-level fences to protect their amenity use.
4. This larger parcel straddles an estate road and has five retained dwellings and a hot food take-away separated by a well-used footpath within it. In the north part of this parcel, a short cul-de-sac remains from the cleared housing alongside which a surface car park has recently been implemented, directed at relieving traffic associated with the school. A public footpath runs between this car park and existing houses, then alongside the east boundary of the site, separating it from an extended area of public open space. The primary school that faces the larger parcel from the north consists of a low level complex of buildings surrounded in its front boundary by a tall green mesh fence. The school has playing fields to its rear.
5. The smaller parcel of land also has a cul-de sac running along one side overlooked by existing dwellings, that extends onto a gravel track that serves some prefabricated garages and informal rear garden accesses. East of this parcel, a community nursery faces the site facing a bus stop inset into the site.
6. Housing in the surrounding estate includes one and two storey homes, semi detached and mid-link. Roofs are gabled, and hipped, with the surrounding materials palette predominantly red multi brick, occasional render and red roofs.
7. The land is all Flood Zone 1, the lowest category of risk. Both parcels are at the outer edge of the SSSI Impact Risk Zones associated with Wingate Quarry and The Bottoms at Thornley. There are no heritage assets on or around the site. The estate trees planted on the land are not subject to Preservation Orders and there are no landscape designations that affect the development sites.

### The Proposal

8. The application seeks approval for the erection of 73 new dwellings. The scheme has been amended in process to retain an area of publicly accessible open space opposite the school, that has resulted in a reduction of units from the 78 originally proposed.
9. The pedestrian east/west link alongside the hot-food take away has been retained with some open space and planting.
10. The scheme includes one and two storey dwellings, semi-detached and mid-linked, with affordable dwellings integrated across the site.

11. The application is being reported to the Central and East Planning Committee as a major housing development.

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## **RELEVANT PLANNING HISTORY**

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12. There is no relevant planning history relating to the application site.

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## **PLANNING POLICY**

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### **National Policy**

13. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
14. *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.
15. *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.
16. *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.
17. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
18. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and

reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

19. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
20. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
21. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
22. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

### **National Planning Practice Guidance:**

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



## Local Plan Policy:

### The County Durham Plan (CDP)

24. *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.
25. *Policy 15 (Addressing Housing Need)* establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities, and the circumstances in which the specialist housing will be supported.
26. *Policy 19 (Type and Mix of Housing)* advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes.
27. *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.
28. *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.

29. *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.
30. *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.
31. *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.
32. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
33. *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.
34. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence

infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.

35. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
36. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting.
37. *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.
38. Policy 44 Historic Environment. Seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

#### Supplementary Planning Documents

39. 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.
40. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
41. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.
42. County Durham Building for Life SPD (2019) – Provides guidance on the application of the Building for Life standards and the Design Review process referenced in CDP Policy 29 to ensure well-designed major residential development proposals.

### Neighbourhood Plan:

43. There is no Neighbourhood Plan activity in this area.

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

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## CONSULTATION AND PUBLICITY RESPONSES

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### Statutory Consultee Responses:

44. *Highways Authority* – had a number of concerns for the scheme as first submitted. It has been confirmed that these have largely been addressed in the revised proposals. Whilst there is a slight under-provision of non-allocated visitor parking bays, this is mitigated by an overprovision of in-curtilage parking which is considered to mitigate the issue. They request a condition requiring that: the proposed estate road must be designed and constructed to meet current highway design standards, and that no development shall commence until plans showing full engineering details of the proposed estate road have been submitted to and approved by the local planning authority.
45. *Lead Local Flood Authority (Drainage and Coastal Protection)* – advise approval of the proposed surface water management for the development as set out in the Flood Risk Assessment and Drainage Strategy of 2nd February 2024 - Rev A; our advice is based upon the existing road infrastructure being utilised with minor addition, and the provision of surface water attenuation to limit flows to QBAR greenfield run-off rate, preventing the risk of flood due to the development. We do however advise the hydraulic calculations should consider 10% urban creep in addition to the 45% climate change allowance.
46. Permeable paving are the preferred method of treatment of surface water from private drives and vehicle access areas as this will reduce pollution from detergents as oil and fuel spillage entering the public sewerage system.
47. They advise a Construction Phase Surface Water Management Plan should be included in the Drainage Strategy document for approval. Surface Water run-off should be prevented during the construction phase to prevent risk of flooding.

### Internal Consultee Responses:

48. *Spatial Policy* – Policy Officers note the previous land uses as housing and a Council Maintenance depot and the current land-use as grassed amenity land for informal recreational use, with protective fencing and tree planting. The site

is not allocated for housing development in Policy 4 of the County Plan and so assessment of the principal of development is against the requirements of Policy 6., the most relevant elements of which are:

- 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;
- i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
- j. where appropriate, it reflects priorities for urban regeneration.

They conclude, 'at one time in the past this land was in residential use, so this proposal which seeks to reinstate that use is broadly consistent with Policy 6 and also the NPPF in terms of suitable location for houses'.

- 49. They consider that, 'The land is situated close to existing residential properties, and there are no concerns relating to bad neighbour/amenity issues. The NPPF (Section 5 – Delivering a sufficient supply of homes) clarifies the Government's objective of significantly boosting the supply of homes and ensuring that sufficient amount of land can come forward where it is needed. Section 11 (Making effective use of land) seeks to promote an effective use of land in meeting the need for homes and strives to make as much use as possible of previously-developed land. Para 124 expects planning decisions to give substantial weight to the value of using suitable brownfield land within settlements for homes (part c) and promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing (part d). Whilst a case could be made that this land is no longer previously developed on account the remains of the permanent structures have blended into the landscape (particularly the areas of the application site which were demolished over 20 years ago), it would nonetheless represent the efficient use of land in a suitable location which accords with many aspects the framework'.
- 50. 'In terms of the impact on open space, Policy 26 (Green Infrastructure) of the CDP states that development proposals will not be permitted that would result in the loss of open space or harm to green infrastructure, unless the benefits of the development clearly outweigh that loss or harm and assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements. Where appropriate there will be engagement with the local community (This is also reflected in Policy 6 (c) (see above)). Policy 26 also protects green infrastructure around the county. It only allows development which results in the loss of open space if the benefits of the development outweigh the loss'.
- 51. 'The development must provide for affordable housing requirements with a s.106 agreement to ensure the provision is retained in perpetuity. A condition is suggested to ensure requirements under Policy 29 for addressing need for dwellings to be accessible and adaptable to meet the needs of older people and people with disabilities. It is noted that one of the proposed house types

(the 'Moy') meets the requirement to be accessible for older residents. Policy requirements for Design Quality, Sustainable Transport, Education Provision and Healthcare provision

52. *Affordable Housing* – Reacting to early comments the distribution of affordable homes is now more spread on the scheme. Queries regarding independent valuation of the proposed dwellings to inform the assessment of the affordable housing offer have been resolved.
53. *Design and Conservation* – The comments of the Design Officer are conveyed through the report of the Design Review Panel as described below.
54. *Landscape Section* – The eastern area of the proposed site is located within an area where landscape improvements were undertaken by DCC in partnership with Believe Housing in 2020 to 2021 that the work was partly funded by the urban tree challenge fund UTCF. The improvement works included tree planting and bulb planting within open spaces to supplement existing trees and repairs to existing birds mouth low timber rail fencing to deter vehicular access and encroachment across the area to the rear of the existing takeaway business premises. In terms of open space provision in the heart of the village, the development would substantially reduce the amount of open space that is locally available. The applicant has submitted three detailed landscape plans that include the remaining relatively small areas of open space. Drawings show an appropriate plant schedule including small to medium street trees and garden trees, ornamental shrubs, wildflower and lawn areas. The three plans include a landscape establishment specification which is also appropriate.
55. The proposed change would bring about significant landscape and visual effects locally, which considering the existing landscape baseline would bring some harm. This harm is applicable to consideration of CDP Policies 6, 29, 39 and 40 unless the benefits of the development clearly outweigh that harm.
56. *Arboricultural Officer (Trees)* – Proposed tree removals are considered excessive and would have a negative impact contrary to policy 40 and the proposed housing layout quite clearly paid no regard to existing trees on the site with no attempt to incorporate some of the high category trees into the layout design.
57. The revised landscape proposals show new tree planting positions within residential gardens and open spaces.
58. The proposed planting layout and species selection is questioned, and attention should also be paid to species choice where trees are planted close to south facing living space windows as in most case heavy shade will not be tolerable to residents. Trees will be removed within a short time frame if they are not

compatible therefore do not offer any mitigation for the high numbers of existing trees being removed (75).

59. Trees on the open space areas are less critical however there should be a broader species palate with more tree species used where possible.
60. *Ecology* – The applicant’s approach to delivering BNG is to purchase off-site biodiversity units from a third party seller, these units will need to be of a specific distinctiveness type to ensure that trading rules are met. This approach is sufficient to deliver a BNG and will be detailed out when the applicant comes to discharge the biodiversity gain condition. An issue of dingy skipper butterflies has been clarified with the updated reporting stating that the habitat is not suitable to support a population, and this is agreed.
61. *Public Rights of Way Section* – There is only one footpath affected which is footpath 13. Any future homeowners must be aware that any vegetation growth from their property onto the footpath is their responsibility and not that of the council. The footpath must remain open during the construction of the properties. Any need to close the footpath will require an application for a temporary closure and must be made prior to the footpath being closed.
62. *Public Health* - reinforce the importance of assessing the impact of this proposed residential development on existing health care services (including primary care and dental care provision), to ensure that these services have the capacity to address the health care needs of any increase in population.
63. *Environmental Health (Nuisance)* – a construction management plan has been submitted. We would suggest a condition is attached ensuring this document is adhered to during the construction phase of the development.
64. The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact.
65. In addition, Environmental Health Officers have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment that the development is unlikely to cause a statutory nuisance.
66. *Environmental Health (Air Quality)* – confirm the site is not within an Air Quality Area. Site suitability is not likely to be an issue and air quality at the proposed development site is likely to be good. There are nearby air quality sensitive receptors that have the potential to be impacted by the proposed development construction and operational phases to all aspects given the location of the

application site within the centre of Wheatley Hill. With no elements to be demolished, elements of the submitted reports needed updating to inform proper mitigation and inform the required Construction Management Plan. These have been provided and a further consultation has been undertaken.

67. *Environmental Health (Contamination)* – officers are satisfied with the proposed remedial works and subsequent verification. Given this it is recommended that a standard verification condition should be applied, with standard ‘informatives’ for the potential for unexpected contamination.
68. *Archaeology* – The County Archaeologist confirms that any remains that may have existed on the site with have been removed by the previous development and its clearance, and consequently, there are no archaeological constraints on the development.
69. *Education Provision Lead Officer* – have confirmed that for Primary Education within the Thornley / Wheatley Hill school planning area, the site is served by Wheatley Hill Primary School and Thornley Primary School, between which, based on projected school rolls, build rates and other commitments has a surplus sufficient to accommodate the development whilst maintaining a 5% surplus. This has been queried in relation to Wheatley Hill Primary School, with Education Officers reconfirming the capacity across the extended catchment area, and no contribution is required for this demographic.
70. For secondary schools, the development is sited within the Sedgefield local school place planning area, with the nearest school at Wellfield, which has a capacity of 1011 pupils. Again, based on projected school rolls, build out rates and other committed development, it is calculated that there would not be sufficient space to accommodate the pupils the development is likely to generate and the required surplus. Mitigation is required, calculated as £243,120 (10 x £24,312) to facilitate provision of the required additional teaching accommodation.
71. Education Officers had also requested provision of a sum of £65,504 for SEND (Special Education Needs and Disabilities) provision.
72. *Sustainable Development And Energy Officer* – no response.

### **External Consultees**

73. *Northumbrian Water* – are happy to support the proposed development subject to the imposition of a condition to ensure compliance with the submitted Drainage Strategy (Revision B).



74. *Police Architectural Liaison Officer (Durham Constabulary)* – Informed by their Secured by Design Homes 2023 guidance, a number of recommendations are set out relating to layout, public and private surveillance, boundary security, door specifications, street lighting, garages and utility meters.
75. *NHS North-East and North Cumbria Integrated Care Board* – had identified that the North Coast Primary Care Network within whose area Wheatley Hill falls are at full capacity and therefore advised that s.106 funding should be provided to support creating extra capacity to serve the needs of the development. They set out their requirements for a financial contribution and a standard calculator, and this has been used to adjust the suggested figure to reflect the reduced number of dwellings proposed in the amended scheme. A figure of £35,259 results.

#### Public Responses:

76. The A public consultation exercise consisting of 126 direct letters, site notices posted around both parcels of land and a press advertisement was undertaken.
77. In response 9 objections have been received, along with one letter of support and one representation.
78. *Councillor Jake Miller* - objects specifically to loss of privacy to existing dwellings in Johnson Estate and the potential for residents' cost if existing rear boundary fences are removed. Whilst the existing take-away on the site is retained, there is a proposed garden fence adjacent the back door this unit which will compromise privacy. Further objection is raised to the complete loss of public open space, and the loss of a footpath. Cllr. Miller's most significant concern is the additional traffic the development will generate, with particular focus on Shinwell Terrace and the area opposite the Primary School. The area will be impossible to pass through safely. With an aging population, a development of bungalows would be preferred.
79. For residents, there are strong objections to the expansion of housing onto the Villages' remaining green spaces, the loss of which threatens the visual character of the neighbourhood. These spaces provide both a visual amenity and serve as essential green space for residents' and especially children's enjoyment and dog walkers. Alternate provision of a playpark is suggested. The green spaces are a wildlife area, with the presence of hedgehogs identified. The importance of green spaces for both physical and mental health of individuals and communities is set out. Houses surrounding the sites were purchased on the basis of the attractive green areas.
80. The villages is described as facing the challenges of declining businesses and amenities, with a lack of access to dental and doctor services which has led to a downturn in the vibrancy of the community. The development will impact on the already strained infrastructure, particularly drainage and water pressure.

81. Loss of privacy to existing dwellings is a deep concern, as is devaluation of property. Objectors suggest the arrangement proposed reverts to a colliery type community and cramped lack of privacy, with residents 'barricaded' in. Residents have a legal right to privacy. The privacy and loss of light implications of building two storey dwellings next to bungalows is not acceptable.
82. On street parking problems in the area have not been improved by the new surface car park near the school. The risk of accident outside or in close vicinity to the primary school will be massively enhanced, where parking will be impossible.
83. There are concerns for the impact of the construction period.
84. The development is contended to only benefit the construction company, who has no business building new homes in the centre of the village. The village is described as having one of the highest crime rates in the area, with a lack of policing and Council management. The development will put further strain on emergency services.
85. In support a resident is in favour of regeneration and investment, with Wheatley Hill left behind where other nearby villages have benefitted. The proposed layout reflects that of the dwellings cleared from the site but the proposed dwellings are more spacious and attractive. Sufficient drainage and utilities already exist on site, the redevelopment of which was expected. The loss of housing has affected the community feel of the village and new residents would be a welcome addition. Gleeson's affordable housing will be attractive to hard working class people which is what the village needs. The existing green space is used by children, but also off road bikes, with the fencing rammed by cars rendering it unsafe. There are paths, alternate green spaces and countryside available in the vicinity. Problems with access to doctors and dentists are not specific to the village. Village schools are over and under subscribed but have access to buses. Investment in the village is welcomed. Any short term inconvenience from construction will result in a long term positive for the area.

*The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at: <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S8SSNEGD0BK00>*

### **Applicants Statement:**

86. The site provides a sustainable development opportunity and would contribute to the provision of a mix of housing size, types and affordability in Wheatley Hill, 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.

87. 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. 10% (7no.) of units on the site will also be designated as affordable homes, secured through a S106 Agreement, in the form of Discount Market Sale and First Homes ensuring affordability across all levels.
88. 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, 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 its well related to the existing settlement of Wheatley Hill. 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.
89. The site lies within 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.
90. Development of the site will bring a number of direct social and economic benefits directly to Wheatley Hill and the surrounding area, including:
  - A selection of 73no high quality new homes including 7no bungalows and 7no affordable units.
  - A health contribution of £35,259 towards improvements to East Durham Medical Group (Wheatley Hill)
  - Provision of 80m<sup>2</sup> of play space and 2,173m<sup>2</sup> of open space on site as well as a contribution of £115,486.80 towards improving the quality of the existing facilities and open space within the area.
  - An education contribution of £243,120 to facilitate the provision of additional teaching accommodation and an additional £65,504 SEND provision.
91. 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.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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92. 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.
93. 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.
94. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Locational Sustainability, Highway Safety Issues, Design and Layout, and Residential Amenity.

### Principle of Development

95. 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.
96. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

97. The site is within the built-up area and therefore consideration of the principle of development is set against the criteria of Policy 6 (Development on Unallocated Sites) of the CDP, Spatial Policy Officers having identified those most relevant, above, but with others considered too. Policy 6 is used to consider proposals for the development of sites which are not allocated in the Plan including those within the built-up area, stating they will be permitted provided the proposal accords with all relevant development plan policies and a list of 10 criteria.
98. Criteria d., e., f. and h. will be addressed in relevant sections later in this report.
99. In the first instance for criteria a., as a proposed housing development on a site previously occupied by housing, and in being surrounded by housing and compatible uses such as the Primary School, the proposed use, 'is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land.
100. For criteria c., which requires development 'does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for', the detail paragraphs below set out that the development will result in the loss of open land that has a recreational value, that the ecological value can be mitigated by standard approved mechanisms, that the land and its surroundings have no heritage value, and that the character of the area will be respected. The loss of recreational land will need to be considered in the planning balance.
101. Criteria i. states that where relevant, development should make as much use as possible of previously developed (brownfield) land. Whilst it is the Case Officer's view that despite the fact that the site has previously been occupied and cleared of housing, the site no longer represents brownfield land in having been landscaped and enjoyed use as managed open space. However, this element of the Policy seeks to encourage development of previously developed land but does not deter the use of greenfield land.
102. The final criteria of Policy 6, j, seeks where appropriate, to reflect priorities for urban regeneration. The application shows a developer's confidence in further investing in Wheatley Hill and adding to the housing stock and variety in the village, with the potential to support local services and businesses, aiding both the urban regeneration of the Village and the County as a whole.

#### Delivering a sufficient supply of homes

103. Central to the current and previous Government's requirements of the Planning System is the imperative of delivering a sufficient supply of homes. Paragraph 70 of the Framework notes, 'To promote the development of a good mix of sites local planning authorities should', at criteria d), 'support the development of

windfall sites through their policies and decisions giving great weight to the benefits of using suitable sites within existing settlements for homes’.

104. Where sites meet the requirements of Policies 6, 15, 19 and 29 of the CDP, positive weight should be attributed to the contribution to housing figures, proportionate to the number of units proposed. Positive weight accrues from this topic in this case.

### *Locational Sustainability*

105. Locational sustainability is simplistically assessed in terms of having a range of facilities within 10 minutes walking distance (around 800m) of a site. This derives from research from organisations including the Chartered Institution of Highways & Transportation (CIHT), the Transport Planning Society (TPS), the Royal Town Planning Institute (RTPI) and Sustrans, the walking, wheeling and cycling charity. This nominal 800m threshold for assessing distances is guidance and not an absolute requirement, and the propensity to walk will not only be influenced by distance but by the quality of the experience. It is also necessary to consider the needs of all users, including the elderly and those with mobility issues or disabilities, who would be most affected by distances and travel times to services and bus stops. It does however reflect the provisions of the Framework to promote sustainable transport at Paragraphs 114 and 116 to promote sustainable transport modes with layouts that maximise the catchment area for bus or other public transport services.
106. Policy 21 of the CDP 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.
107. The relatively compact nature of the older parts of Wheatly Hill serve this issue. A Primary School and a Nursery lie adjacent to the two parts of the site. The furthest dwelling from the mini-supermarket is less than 500m distance. The walk is flat, along adopted, paved, street-lit estate roads, which would prove no deterrence to older residents or pushchairs. There is a maximum distance to bus stops on the main street, with stops also serving the estate, including immediately adjacent the smaller parcel of land. Wheatley Hill is served by the 22 Durham/Sunderland and 58 Durham/Hartlepool routes.
108. Taking into account the detail considered in these paragraphs and the Policy 6 consideration above, the site(s) are considered to have strong locational sustainability, meeting the requirements of CDP Policy 21 and part 9 of the Framework, with due regard to the quoted guidance.

### Highway Safety Issues

109. Policy 21 of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. It also expects developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Detailed Parking and Accessibility advice is set out in the SPD (2023), the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
110. The revised scheme proposes a slight under-provision of non-allocated visitor parking bays, but this is accepted as mitigated by an overprovision of in-curtilage parking by Highways Officers. They request a condition requiring the changes to the public highway to be to adoptable standards.
111. The proposed development is an infill in an established urban area, and whilst the road layout reflects when it was built it is still functional and fit for purpose. There is no indication from Highways Officers that the surrounding roads and junctions are not capable of assimilating the proposed traffic the development would generate, which is therefore concluded acceptable in terms of the requirements of paragraph 111 as above. There are concerns from local residents that the existing parking and access issues associated with the Primary School to the north of the site will be exacerbated by new development. Whilst this is an existing issue, and it is not for new development to mitigate existing problems, a surface car park has recently been erected at the north-east corner of the larger parcel of land, and the redesign of the layout has set dwellings back from the facing frontage on Wordsworth Avenue, accessing them from a shared driveway accessed from the retained cu-de-sac, rather than directly from that street, lessening the potential for dispute with parked cars and retaining available on-street parking.
112. Subject to the condition suggested by Highways Officers, this aspect of the proposal is considered acceptable when considered against the requirements of CPD Policy 21, the adopted Parking and Accessibility SPD, and part 9 of the Framework.

## Design and Layout

113. Policy 29 of the CDP outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 130 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.

114. The application was presented to the Design Review Panel as a requirement of Policy 29. The panel gives an overarching assessment of design and layouts and is formed of internal consultees. Assessment of the scheme as first submitted accrued 7 red scores against the 12 questions, with criticism that; the scheme did not integrate into its surroundings and enclosed the well-used footpath, further detail of the affordable offer was required, and the scheme did not create a place of locally inspired or otherwise distinctive character or take advantage of existing landscaped areas. There were criticisms of the highways implications including some basic dimensions, a lack of visitor parking, and a lack of definition between public and private space.
115. A significant redesign was undertaken to address these criticisms, with an area of green space introduced to the north part of the larger parcel, opposite the Primary School, with an indicated play area on it. The public footpath has open space introduced alongside it, with the adjacent dwellings changed from two storey to bungalows, opening out the previous tunnel effect to provide a more open route of safer appearance. Negotiations with the Affordable Housing officer has resulted in an evidenced scheme of 10% (7no.) of units, to be secured through a S106 Agreement, in the form of Discount Market Sale and First Homes ensuring CDP Policy and NPPF compliant affordability across all levels. The character of the development is a balance between reflecting the better design elements of the surrounding estate, such as through the use of an appropriate and restricted materials palette and the use of simple elevational treatments. This element of the scheme could potentially be improved, but it is acknowledged that the scheme presented is acceptable in its context. The transit route across the larger parcel of land has been redesigned to prevent potential security issues from screened areas around that unit, with clear demarcation and defensibility of public and private spaces offered in the form of diamond rail fencing. Highway dimensions have been altered to meet adoptable standards, with visitor parking included to required standards. An issue with a junction visibility splay has been designed out.
116. The scheme was re-presented to the Design Review Panel, with all but one issue – character being attributed upgraded scores. Further discussions have been held on this remaining issue, with a simplified schedule of materials proposed and accepted to better reflect the surrounding character of the area whilst still being appropriate to the modern house types proposed. This approach is accepted.
117. In short, the significantly redesigned scheme is considered to address the poor scores given its original iteration.
118. Reflecting criticism of earlier iterations of the scheme, and the requirements of the Police Architectural Liaison Officer, fences separating rear gardens are 1800mm high boarded structures, ensuring privacy and security, a significant improvement.

## Residential Amenity



119. Policies 29 and 31 of the CDP outline that developments should provide high standards of amenity and privacy, minimise the impact of development upon the occupants of existing adjacent and nearby properties and not lead to unacceptable levels of pollution. Policy 32 seeks to ensure that historic mining legacy and general ground conditions are suitably addressed by new development. A Residential Amenity Standards Supplementary Planning Document (SPD) has also been adopted by the Council. The aforementioned policies and SPD can be afforded significant weight. 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.
120. The introduction of the green space and play space on the north boundary of the larger parcel of land gives the opportunity to separate the residential dwellings from the functions of the school, there being hard surfaced play areas facing the site within the school grounds, and the inevitable disruption the beginning and end of the school day brings. The school has 'Keep Clear' road markings outside its access/egresses, but there are no parking restrictions on surrounding roads. A new 28 space surface car park has recently been erected opposite the school on the north boundary of the larger parcel of land, designed to address parking problems. It is not for the development to further address these existing problems.
121. Policy Officers have queried whether the open space could be better located centrally in the development. It is however considered that the siting opposite the school serves both the proposal and wider existing community better, notwithstanding that this area of the site is compromised for new build development by the presence of an underground sewer easement.
122. The larger parcel of land is bisected by existing hard surfaced paths that pass either side of the hot food take away unit, which connect Wheatley Terrace to Shakespeare Street, providing connection not just between the streets and to the food outlet, but also providing permeability through the estates to the school and the village centre facilities beyond to the north-east and in the other direction west, to the Community Nursery. This through route has been retained and set within an area of planted open space. The private shared drive proposed along the north edge.
123. For specific relationships, guidance within the SPD advocates separation distances of 21m between facing principal elevations and 18m between facing bungalows, 13m between principal and two storey gable elevations and 10m to a single storey. It is advised that additional separation may be required where there are changes in levels across a site.
124. The two parcels of land are broadly flat and are surrounded by existing residential dwellings. The guidance in the SPD is assessed on this basis. The development meets or exceeds the required distances for the proposed dwellings in all but two relationships. There is a rear facing separation of plots 40 and 43 which is 1m under the required 21m.

125. On the site of the former depot, the rear of 67 Johnson Estate faces towards the side elevation of plot 59 which proposes a 'Dalkey' house-type, with a separation distance of 11.9m, where the SPD suggests 13m as appropriate. The Dalkey is a 4-bed two storey dwelling with a side door and secondary side window on the ground floor, and an en-suite wc window on the first floor. The dwellings in Johnson Estate that back onto this part of the development site have high rear boundaries, with the applicant's boundary plan proposing only to replace or repair such boundary markers 'as deemed necessary'. The ground floor openings will be visually screened by the existing boundary marker. The upper floor window serving the en-suite WC will be obscure glazed. The existing and proposed dwellings are broadly equidistant from the boundary. With the shortfall relating to guidance rather than an absolute requirement and taking into account the specifics of the proposed relationship including the use of obscure glazing, it is not of such significance that a refusal could be sustained on this issue. It is noted that no representation has been received from the existing dwelling.
126. There have been specific complaints for separation distances in respect of privacy and loss of light from 30 Burns Street and from the bungalows at Peterlee Cottages, south of the hot food take away. In Burns Street the separation distances range from 27m to 35m, significantly in excess of the guidance. The concern from Peter Lee Cottages was in respect of two storey dwellings being proposed behind existing bungalows. The required 21m separation is achieved for this relationship, with existing and proposed dwellings both enjoying long gardens.
127. Concern has been raised for the relationship of plot 19 to the existing hot food take-away. The take-away has no openings facing the proposed dwelling. A cowed vent on the roof faces away from the proposed neighbour. The Glin house-type proposed is a 2 storey 3 bed semi-detached unit, with no side door and obscure side windows serving a wc on the ground floor and a bathroom on the first floor and a separation of 3m. The boundary markers have been relocated to remove a screened tunnel between the commercial and residential units for security. No objection has been received for the relationship from Environmental Health Officers.
128. The proposal maintains existing rear garden and garage access for properties presenting rear boundaries to the open space behind Wheatley Terrace.
129. Amended to reflect concerns relating to the layout as first submitted, and subject to the imposition of a condition requiring the installation & retention of obscured glazing noted above, the proposed layout is considered to meet reasonable expectations for residential amenity following the requirements of Policies 29 and 31 of the SPD and the guidance in the Residential Amenity Standards SPD.
130. Environmental Health (Air Quality) consider for the operational phase of the development that site suitability is not likely to be an issue and air quality is likely to be good. However, there are residential amenity impacts from the construction period given the relationship to surrounding dwellings. They have

indicated additional detail required to inform the proposed Construction Management Plan. These have been provided and are under consultation as this report is written. The nature of the additional information is such that it is not fundamental to the consideration of the application and would not affect assessment of the planning balance. Member will be updated of any amendments required. A condition is proposed to require the necessary Construction Management Plan.

## Landscape and Visual Impact

131. Policy 39 of the County Durham Plan states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Policy 26 outlines developments are expected to provide new green infrastructure and ensure provision for its long-term management and maintenance. Similar requirements are outlined in Policy 29. Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment.
132. The County Landscape Officer considers the proposal would bring about significant landscape and visual effects locally, which considering the existing landscape baseline would bring some harm, and that this harm is applicable to consideration of CDP Policies 6, 29, 39 and 40 unless the benefits of the development clearly outweigh that harm. The Arboricultural Officer does not consider that the proposed scheme offers appropriate mitigation for the high number of trees proposed to be removed.
133. With both formal and incidental open spaces in the development the submitted Landscape Plans show a considered approach to using the available land to facilitate a considered landscaping scheme that will be a positive feature in the public domain, with a row of street trees proposed around the outer boundaries of the larger area of proposed POS opposite the school. This area is then grassed and includes a Children's Play area in one corner. The overlooking new dwellings provide natural surveillance, with the land a facility, and the planting, an appropriate feature. For the open space including the retained footpath between Wheatley Terrace and Shakespeare Street/Byron Street, the footpath is proposed to be tree lined to the north, reinforcing and giving an attractive appearance to the frontage of plots 53/54/55, reinforcing the 450mm boundary marker separating those dwellings shared private drive from the POS. The area of the site proposed built on the former Maintenance Depot and the cul-de-sac on the smaller parcel of land use trees to make positive features of some of the more awkward corners of the unusually shaped land. Tree Officers had offered criticism of some of the tree species proposed. Amended plans have been submitted.

134. It is the nature of building on green spaces that there will intrinsically be harm. This harm is acknowledged as described by the Landscape Officer. Planning Officers consider that the revisions to the scheme including extended open space and the considered nature of the landscaping scheme proposed on this, and in new residential plots goes as far as it can to mitigate this harm. Nonetheless, there is still some elements of conflict with Policies 6c, 29, 39 and 40:
- Policy 6c of the CDP required development not to ‘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’. The suggested compensations are discussed in the open space elements of this report.
  - CDP Policy 29 is framed for this subject very much at ensuring the quality of the new development rather than protecting what is being displaced.
  - For CDP Policy 30, the proposals for the new development incorporate appropriate measures to mitigate adverse landscape and visual effects, with the harm to the character, quality or distinctiveness of the landscape unacceptable reduced proportionately.
  - Policy 40’s requirement 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’ to be assessed in the planning balance.

#### Drainage and Flood Risk

135. Policies 35 and 36 of the CDP relate to flood water management and foul water infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water. 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 in some instances an exception test are passed, informed by a site-specific flood risk assessment.
136. For Surface Water, Drainage Officers as the Local Lead Flood Authority have advised approval of the proposed surface water management for the development as set out in the Flood Risk Assessment and Drainage Strategy of 2nd February 2024 - Rev A. The applicants have provided additional data to show that the provision of surface water attenuation to limit flows to QBAR greenfield run-off rate, preventing the risk of flood due to the development. The hydraulic calculations consider 10% urban creep in addition to the 45% climate

change allowance. The hydraulic calculations should be submitted for audit. Calculations include a 10% allowance for urban creep for plot areas.

137. A Surface Water Management Plan is provided within an updated Flood Risk and Drainage Strategy.
138. Northumbrian Water have confirmed approval of the submitted approach to foul drainage, to be secured by a condition. The advice of this consultee and imposition of the condition is considered to bring compliance with Policy 36 of the CDP and the relevant sections of parts 14 and 15 of the NPPF.
139. The applicant has engaged with both the Drainage consultees and provided the necessary changes to ensure that the scheme meets requirement for surface and foul water control, bringing compliance with the requirements of Policies 35 and 36 and parts 14 and 15 of the Framework.

#### Ecology and Biodiversity Net Gain

140. The requirements of Schedule 14 of the Environment Act 2021, as inserted into Schedule 7A of the Town and Country Planning Act 1990, apply to all planning applications for major development unless falling under one of the listed exemptions, none of which apply here. This application is legally required to deliver biodiversity net gains of at least 10%.
141. CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks, and NPPF Paragraph 180 d) advises that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. NPPF Paragraph 186 d) also 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.
142. The application is supported by a Biodiversity Net Gain Assessment and a completed version of DEFRA's Biodiversity Metric. These documents quantify the Net Bio-diversity loss of the development from the removal of the existing trees and managed grassland and allows calculation of the required 10% gain. Therefore, the application fulfils the requirements of Schedule 14 of the Environment Act 2021 (as inserted into Schedule 7A of the Town and Country Planning Act 1990), CDP Policy 41 and NPPF Paragraphs 180 d) and 186 d).
143. The granting of planning permission would be subject to a biodiversity gain condition which requires the developer to submit and agree a Biodiversity Gain Plan with the Local Planning Authority. Planning conditions are normally imposed on the grant of planning permission under section 70 (1) and section 72 of the Town and Country Planning Act 1990. However, the biodiversity gain condition has its own separate statutory basis as a planning condition under Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 and would be included separately to the list of conditions recommended by Officers

on the decision notice. In this instance, the County Ecologist has agreed the applicant's approach to delivering BNG through the purchase of off-site biodiversity units from a third party seller. These units will need to be of a specific distinctiveness type to ensure that 'trading rules' are met, i.e. that the biodiversity gain is delivered in a similar typology to that lost. To meet the trading rules, we will need to mitigate the following off-site: 'Other neutral grassland' (medium distinctiveness grassland): 8.83 units, and 'Individual Trees' 0.08 units. This approach is sufficient to deliver a BNG and will be detailed out when the applicant comes to discharge the biodiversity gain condition.

144. This approach brings compliance with the requirements of Policy 41 and the advice in part 15 of the Framework.

### Planning Contributions

145. 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.
146. Policy 25 goes on to state that developers will be required to enter into Planning Obligations which are necessary to make the development acceptable, 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. These tests are set out as statutory tests in regulation 122 of the Community Infrastructure Levy Regulations (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. In this regard, CDP Policy 25 reflects NPPF Paragraphs 55 and 57.
147. Those matters proposed to be addressed by Legal Agreement, and an assessment of how they perform against the tests is set out below, in four topic areas: Affordable Housing, Public Open Space, Education and Healthcare.

### *Affordable Housing Provision*

148. Policy 15 of the CDP (Addressing Housing Need) requires new development to contribute towards meeting the needs of the county's existing and future residents. It requires all qualifying new housing proposals to provide a percentage of Affordable Housing which is accessible, affordable and meets the needs of those residents unable to access the open housing market.
149. Affordable Homes have been spread across the scheme as shown in the revised Housing Layout (Dwg No. 2215.04.01 Rev F) and Affordable Housing

Plan (Dwg no. 2215.09.04 Rev D). The necessary alterations have been made to the Affordable Housing Statement to reflect these changes (Rev B).

150. Similarly, the breakdown and discount levels outlined in the submitted Affordable Housing Statement (Rev B), as 5 discounted sale and 2 first homes are considered acceptable. Affordable Housing Officers comments confirm that the proposed scheme is acceptable and therefore compliant with the relevant requirements of Policy 19 and part 5 of the Framework.
151. The provision of Affordable Housing within a development is essential for it to be considered acceptable, both for the Development Plan and for National Planning Policy. To this end its inclusion with a legal agreement is considered to make the development acceptable, with the assessment of the details of the required provision against the criteria of Policy 15 and the Council's systemised adopted approach for this topic ensuring it is directly related to the development, and fairly and reasonably related in scale and kind to the development, in line with the standard tests.

#### *Public Open Space Provision*

152. Policy 26 (Green Infrastructure) of the CDP states that development proposals will not be permitted that would result in the loss of open space or harm to green infrastructure, unless the benefits of the development clearly outweigh that loss or harm and assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements. It goes on to set out that new residential developments will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the Council will require financial contributions to be secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality. Paragraph 98 of the NPPF highlights that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Paragraph 127 requires amongst its advice that developments function well and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
153. The Council's Open Space Needs Assessment (OSNA) 2018 is considered the most up to date assessment of need. It identifies the five typologies (allotments; amenity/natural greenspace; parks, sports and recreation grounds; play space (children) and play space (youth)), sets out requirements for public open space on a population pro rata basis and whether provision should be either within the site, or through a financial contribution towards offsite provision, in lieu taking into consideration factors such as the scale of the development, existing provision within suitable walking distances and the level of contribution sought.
154. The layout plans have been amended from the original submission, and now proposes some amenity open space and play space in the northern part of the

site, and this has also resulted in a reduction in the no. of units to 73. The layout includes 80.30m<sup>2</sup> play space and a total of 2,173.64m<sup>2</sup> amenity open space. Requirements for open space as detailed in the OSNA and the Developer Contributions SPD include for a range of typologies that the development is likely to create demand for but that cannot be included on the space available. To this end an additional contribution of £115,486.80 towards improving the quality of the existing facilities and open space within the area, is requested and offered included in the s.106 agreement that would be signed by the Council and the developer before any consent is issued.

155. The provision of quality appropriately sited specified public open space is a requirement of both Policies 26 and 29 being therefore required to make the development acceptable. The use of the OSNA calculator ensures the proposed on and off-site provision is directly related to the development, and fairly and reasonably related in scale and kind to the development. The mitigation is necessary for the development to be acceptable in planning terms.

### *Education*

156. NPPF Paragraph 97 recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Paragraph 99 goes on to advise that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities.
157. The Council's Education Provision Lead Officer has advised that there is capacity within the primary education system in the area. This is worked out on an area basis rather than school by school, which may result in some schools being oversubscribed whilst others have capacity, as appears to be the case in this instance. With an established, systemised approach to quantifying need and mitigation, Officers do not consider a demand for mitigation could be reasonably sustained.
158. Education Officers have identified a requirement for secondary education, as detailed in their response above. Using the established methodology to estimate the shortfall the proposed development will generate which includes a 5% buffer, a sum of £243,120 is requested. This is considered to meet the required tests, being directly related to the number of secondary school age children the development is likely to generate, with the standard methodology ensuring the sum is fairly and reasonably related in scale and kind to the development, with the mitigation being necessary for the development to be acceptable in assessment against the requirements of the Development Plan and the NPPF.
159. This application has been lodged with the Council for some time, held in the first instance for the developer to provide Ecology information, and then with the scheme amended to reflect consultees concerns. In the interim the Council



have recently adopted a Development Viability, Affordable Housing and Financial Contributions SPD (2024) which extends requirements of this issue to provide nursery, SEND and post-secondary requirements, which were not requested of the applicant with their pre-submission enquiry. The applicant has however agreed to contribute these additional mitigations, as detailed in their statement above, reflecting their commitment to the development and the local community. Accordingly, a contribution of £65,504 is to be made towards SEND provision.

160. Ultimately, the inclusion of the mitigation within the legal agreement brings Policy compliance in mitigating the impacts of development and sits neutral within the planning balance.

### *Health Care*

161. The village is served by the East Durham Medical Group in Wheatley Hill which is located around 500m (path) from the larger parcel of land, at the eastern end of the village centre. The NHS North-East and North Cumbria Integrated Care Board have confirmed that this practice falls within the Durham Coast Primary Care Network which are at full capacity and would require additional space to deliver their services to an increased number of patients. Therefore, they recommend that a financial contribution, which has been adjusted using their standard calculator to request a sum of £35,259 would be required to provide additional / extended accommodation to mitigate the impact of the development and provide additional capacity for local GP surgeries. This figure is calculated using the NHS Property Service build cost rate of £3,000 per square metre, with a likely average occupancy of 2.3 people per dwelling resulting in the development increasing patient numbers by 179. The necessity of this mitigation is reinforced in the comments of Durham County Council's Public Health Team.
162. Considering the required tests; the contribution to mitigate the specific identified shortfall is necessary to make the development acceptable in planning terms, reflecting the social and economic objectives of the NPPF as set out at paragraph 8 and detailed in part 8, paragraph 96 to address identified local health needs. The assessment of the capacity of the local surgery within the context of the surrounding health care network ensures the requested mitigation is directly related to the development; and use of the standardised calculator means it is fairly and reasonably related in scale and kind to the development.
163. The lack of dental services capacity in the village and generally is a concern of some objectors. The NHS advice is very specific in the detail of the medical practices that are proposed mitigated, as required by the tests required to secure s.106 monies. It does not provide for dental surgeries. 'Primary dental services are one of the four pillars of the primary care system in England, along with general practice, primary ophthalmic services (eye health) and community pharmacy. These services use a 'contractor' model of care, which means that almost all NHS primary care services are delivered by independent providers

contracted to the NHS' (\*Kingsfund.org. 11 Oct. 2023). The nature of the organisation of dental provision is such that at present there is no mechanism to secure a form of mitigation that could allow for new demands for additional capacity. Beyond the control of the planning system, this issue is considered neutral in the planning balance.

## Mental Health

164. In addition to consideration of formal healthcare matters, above, residents also have raised concern for the loss of the existing green space for the mental health and informal recreation benefits it brings – although it is also contended that the open space attracts anti-social behaviours too. These benefits are accepted and acknowledged. The green space appears well maintained, with tree and bulb planting complimenting its visual amenity. Whilst there are other areas of green space in the area, these are generally restricted in size and not easily accessible.
165. The amended development provides for two areas of green space, one proposed to include play equipment, but significantly reduced in size from those currently available. As discussed elsewhere in this report, the development seeks to mitigate the further loss of open space through paid mitigation to allow the Council or local bodies to upgrade and add to existing open space and informal leisure facilities through the payment of £115,486.80 specific to such in the s.106 agreement. Whilst the upgraded or additional replacement facilities may not be as convenient for current users of the site, this is a standard methodology for mitigating these types of harm. To this end this matter is attributed neutral weight in the planning balance.

## Other Matters

### Meeting the Needs of Older People and People with Disabilities

166. The submitted scheme shows the required 66% M4(2) ( ) (accessible and adaptable dwellings) compliance and 10% of the scheme, i.e. 7 units to be implemented as bungalows – the 'Moy' house-type. These are spread across the development, reflecting the advice in part 8 (Promoting healthy and safe communities), paragraph 96 of the NPPF to design places that 'promote social interaction, promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other'. This brings compliance with the relevant elements of Policy 15 of the CDP.

## Footpaths

167. In relation to public footpaths, Policy 21 (Delivering Sustainable Transport) seeks in part to; deliver, accommodate, and facilitate safe sustainable modes of transport, reflecting the advice in part 9 of the NPPF. Footpaths Officers have noted that there is only one footpath affected which is footpath 13 and seek to

ensure that there is no encroachment onto the footpath from the proposed dwellings, with future homeowners must be aware that any vegetation growth from their property onto the footpath is their responsibility and not that of the council. The footpath must remain open during the construction of the properties. Whilst there are mechanisms to ensure the latter, the potential for overgrowing vegetation is beyond the remit of this application, it being noted that the redesign of the scheme has separated the boundaries of the proposed adjacent dwellings from the path through the inclusion of an area of open space that should prevent this eventuality – but more importantly avoids a narrow pedestrian tunnel that could challenge perception of pedestrian safety. This effect is further enhanced by the siting of bungalows adjacent the path, with is a well-used route between Shakespeare Street and Wordsworth Avenue – and both the Primary School and an adjacent area of grassed open space. It is envisaged that a barrier would be needed to the front of plot 41 to obstruct alternate informal pedestrian access and trespass between the new surface car park and across the front of plots 37-41, this being shown as a diamond kick rail fence, 0.45m high. The nature of this fence could be reviewed once the development is operational if this boundary marker is not sufficient to deter trespass. The suggested fencing will compliment that of the recently implemented surface car park.

168. The revised scheme is considered to better ensure that the existing right of way remains a safe and attractive route for pedestrians on this essential link between the school and the streets to the south-east of the site. Officers conclude compliance with the relevant elements of Policy 21 of the CDP for the effects of the development on footpath 13.

#### Heritage and Archaeology

169. For matters relating to Heritage and Archaeology, Policy 44 (Historic Environment) of the CDP sets out development will be expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate. The County Archaeologist has confirmed that the previous development on the site would have removed any archaeological interest in the site. There are no designated or non-designated heritage assets in the vicinity of the site. The proposals are considered to have no implications for Policy 44.

#### Contamination

170. Policy 32 of the CDP requires development to demonstrate that contamination and unstable land issues can be satisfactorily addressed by appropriate mitigation measures and 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.

171. Environmental Health (Contamination) Officers concur with the submitted reports that identify the need for site remediation, suggested suitable conditions and informatives. These are considered relevant and necessary and are appended at the end of this report. Compliance is concluded with the requirements of Policy 32 and the relevant elements of part 15 of the Framework.

#### Existing rear Garden Fences

172. Councillor Miller passes on concerns that there would be cost to existing residents if existing rear boundary fences are removed. A common concern where new development is proposed to back onto existing rear gardens, the applicant's boundary treatments plan indicates that existing boundaries will be assessed and repaired or replaced as necessary. This avoids a usual convention of erecting a separate and duplicate boundary, leaving an unmanaged channel in between. Officers are satisfied with the proposal.

#### Water Pressure

173. Some objectors are concerned that the new development may affect water pressure in the area, with some contending this is a problem in the area, and some not. No evidence has been submitted to illustrate a problem and Northumbrian Water do not mention any issues in their response. This topic is given no weight on this basis.

#### Local Employment

174. In the Applicant's Statement the developer details a commitment '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 to directly to the local community'. This is a positive aspect of the proposals, and whilst it would not be secured by any approval, nonetheless it is attributed a degree of positive weight in the Planning assessment, proportionate to it not being formally secured.

#### Depreciation

175. Objectors' concerns that the development has the potential to depress surrounding house prices is not a material Planning consideration.

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## **CONCLUSION**

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176. 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.
177. In this instance, it is concluded that the weight to be attributed to the supply of new dwellings outweighs the remaining harm from the loss of existing public open space and existing landscape features when considering the planning balance.
178. The scheme presents a modern infill development in a sustainable location within a sustainable settlement. Where the requirements for mitigation have been identified they can be addressed through the imposition of conditions and a legal agreement.
179. In terms of the requirements of the NPPF, the development represents sustainable development, will assist in delivering a sufficient supply of homes, whilst promoting healthy and safe communities, including an acceptable approach to sustainable transport through using principals aimed at achieving well-designed places and within the context of the site meeting the challenge of climate change, flooding and coastal change. For the topic of conserving and enhancing the natural environment, the scheme provides an appropriate mechanism to ensure the required bio-diversity net gain. Identified landscape harms, intrinsic in the development of green space are part mitigated by the inclusion of open space, play equipment and an appropriate planting scheme as well as a financial contribution for open space provision or enhancement, but are the main harm identified in this assessment of the planning balance. This harm is considered to be outweighed by the above benefits of the development.
180. The Durham County Plan, as the 'development plan' sets out through its policies a systemised and detailed approach reflecting the National requirements. No elements of the assessment of Policies nor the comments of Consultees, statutory, internal or public have raised any issues that alone or cumulatively are considered to outweigh the principal benefit of increased housing supply.

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## **PUBLIC SECTOR EQUALITY DUTY**

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181. 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.

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

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## RECOMMENDATION

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That the application be **APPROVED** subject to the completion of a legal agreement under Section 106 of the Town and County Planning Act 1990 (as amended) to secure:

- Affordable Housing Provision – 7 no affordable housing units (consisting 2 First Homes and 5 Discount Market Sale as detailed within the submitted Affordable Housing Statement Rev B)
- Education - contribution of £243,120 to facilitate the provision of additional teaching accommodation and an additional £65,504 SEND provision.
- Health - contribution of £35,259 towards local healthcare improvements
- Public Open Space - contribution of £115,486.80 towards improving the quality of the existing facilities and open space within the area.

And subject to the following conditions:

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

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

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

BNG Assessment	v.9	20/08/24
Detailed Landscape 1/3	5062/2 rev.B	20/08/24
Detailed Landscape 3/3	5062/4 rev.B	20/08/24
Detailed Landscape 2/3	5062/3 rev.B	20/08/24
Housing layout	2215.04.01 (Rev F)	07/06/24
Boundary treatments	2215.06.01 (Rev C)	07/06/24
Highway closure plan	2215.09.02 (Rev E)	07/06/24
Adoption plan	2215.09.03 (Rev B)	07/06/24
Affordable housing	2215.09.04 (Rev D)	07/06/24
Management / public open space plan	2215.09.05 (Rev B)	07/06/24
Proposed Levels (Sheet 1)	21 (Rev P3)	07/06/24
Proposed levels (Sheet 2)	22 (Rev P3)	07/06/24
Shed details	SD705	08/02/24
353 House Type plans (Urban)	21-353-U-0001 (Rev C04)	08/02/24
250 House Type plans (Urban)	21-250-U-0001 (Rev C03)	08/02/24
254 House Type plans (Urban)	21-254-U-0001 (Rev C03)	08/02/24

350 House Type plans (Urban)	21-350-U-0001 (Rev C05)	08/02/24
354 House Type plans (Urban)	21-354-U-0001 (Rev C05)	08/02/24
355 House Type plans (Urban)	21-355-U-0001 (Rev C06)	08/02/24
358/9 House Type plans (Urban)	21-358/9-U-0001 Rev C03	08/02/24
360 House Type plans (Urban)	21-360-U-0001 (Rev C04)	08/02/24
450 House Type plans (Urban)	21-450-U-0001 (Rev C03)	08/02/24
454 House Type plans (Urban)	21-454-U-0001 (Rev C06)	08/02/24
E. V. Charging point installation details	NSD251 (Rev B)	08/02/24
Permeable block paving detail	NSD715	08/02/24
1800mm high close boarded timber fence	SD-100 (Rev F)	08/02/24
600mm high post and wire fence	SD103 (Rev C)	08/02/24
Sales garage details		
3m x 6m internal dimension detached single garage details	SD704 (Rev E)	08/02/24
3m x 6m internal dimension detached double garage details	SD1700 (Rev D)	08/02/24
	SD1701 (Rev D)	
Strategy for Remedial Works	C9843A	Feb 24

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 15, 19, 21, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41, 44, Development Viability, Affordable Housing and Financial Contributions SPD (2024), Residential Amenity Standards SPD (2023), Parking and Accessibility SPD (2023), County Durham Building for Life SPD (2019) of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12, 14, 15 of the National Planning Policy Framework.*

- No dwelling shall be occupied until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption by the Local Highway Authority, including traffic calming measures have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details.

*Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.*

- Before any dwelling on the eastern parcel of land is occupied, the applicant must submit details of the proposed playspace to include, but not restricted to, details of any equipment, surfacing, boundary markers and a scheme of ongoing maintenance and a schedule for the full implementation to be submitted to and approved in writing by the Local Planning Authority, with the agreed scheme thereafter being implemented in full.

*Reason: to ensure the mitigations for the loss of existing open space are implemented to result in a sustainable development as required by Policy 29 of the Durham County Plan and Part 15 of the National Planning Policy Framework.*

5. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled "Flood Risk Assessment and Drainage Strategy, Rev.B., Ref: 23066-FRADS 01, dated 26 May 2024". The drainage scheme shall ensure that flows from Site A (smaller site) for foul discharge to manhole 3602 and for surface water also discharge to 3602 at a restricted rate of 3.5l/s and for Site B (larger site) flows for foul discharge to manhole 5705 and for surface water also discharge to 5705 at a restricted rate of 10l/s. The final surface water discharge rate as agreed by the Lead Local Flood Authority.

*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.*

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

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

7. The development shall be implemented as described to include 66% of properties built to a standard which meets the requirements set out in M4(2) of the Building Regulations 2010 Approved Document Part M: Access to and use of building (as amended) or any updated version of replacement document.

*Reason: In the interests of meeting the needs of older people and people with disabilities and to comply with Policy 15 of the County Durham Plan and Part 5 of the National Planning Policy Framework.*

8. The landscape scheme set out on plans 5062/2 Rev.B , 5062/3 REV.B, 5062/4 REV.B shall be carried out in the first planting season following the occupation of the building(s) or the practical completion of the development, whichever is the sooner. All landscape planting shall be maintained for a minimum of five years. Any trees or plants which are removed, die, fail to become established, or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size and species to those originally planted. Replacement planting will be subject to the same conditions.

*Reason: To ensure the approved landscaping scheme is implemented so that the development respects and positively responds to the character and appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.*

9. 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: In the interests of the visual amenity of the area and to comply with Policies 26 and 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

10. Before any of the dwellings hereby approved are implemented, the developer must provide formal documentation to evidence the securing of off-site biodiversity units specific to this scheme, of a specific distinctiveness type to ensure that trading rules are met and demonstrate that the required 10% biodiversity net gain is met or exceeded.

*Reason: To ensure the Biodiversity Gain Plan submitted for approval accords with the biodiversity information submitted with the planning application and that the development delivers a biodiversity net gain in accordance with Schedule 7A of the Town and Country Planning Act 1990 and Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

11. Development must only be undertaken in accordance with the Construction Phase Surface Water Management Plan – Report no. 23066-SWMP-01 May 24.

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

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

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
2. Details of methods and means of noise reduction and suppression.
3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
5. Designation, layout and design of construction access and egress points.
6. Details for the provision of directional signage (on and off site).
7. Plan based details of the position, and heights relative to ground level, of security fencing, contractors' compounds, and temporary infrastructure, including cranes, plant, and other equipment, and storage arrangements for materials.

8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials, to including the timings of deliveries and the types of delivery vehicle(s) to be used.
  9. Details of provision for all site operatives, including visitors and construction vehicles, for parking and turning within the site during the construction period.
  10. Routing agreements for construction traffic.
  11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
  13. Management measures for the control of pest species as a result of demolition or construction works.
  14. Details of measures for liaison with the local community and procedures to deal with any complaints received.
  15. Details of wheel-washing facilities and street-cleaning to be provided on and around the site.
- The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" (or an equivalent British Standard if replaced) during the planning and implementation of site activities and operations.

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

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

13. No construction/demolition activities, including the use of plant, equipment, and deliveries, which are likely to give rise to disturbance to residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday. The best practicable means shall be used to minimise noise, vibration, light and dust nuisance or disturbance to local residents resulting from construction/demolition site operations. No burning of waste is to be carried out on the development site. It shall be considered that the best practicable means are met by compliance with all current British standards/relevant guidance.

*Reason: In the interests of preserving residential amenity during the construction phases of the development having regards to County Durham Plan Policy 31 and Part 12 of the NPPF*

14. Windows on the north elevation of plot 19 must be constructed in obscured glazing to a minimum level 3 on the Pilkington Scale and remain in the same or comparable specification in perpetuity.

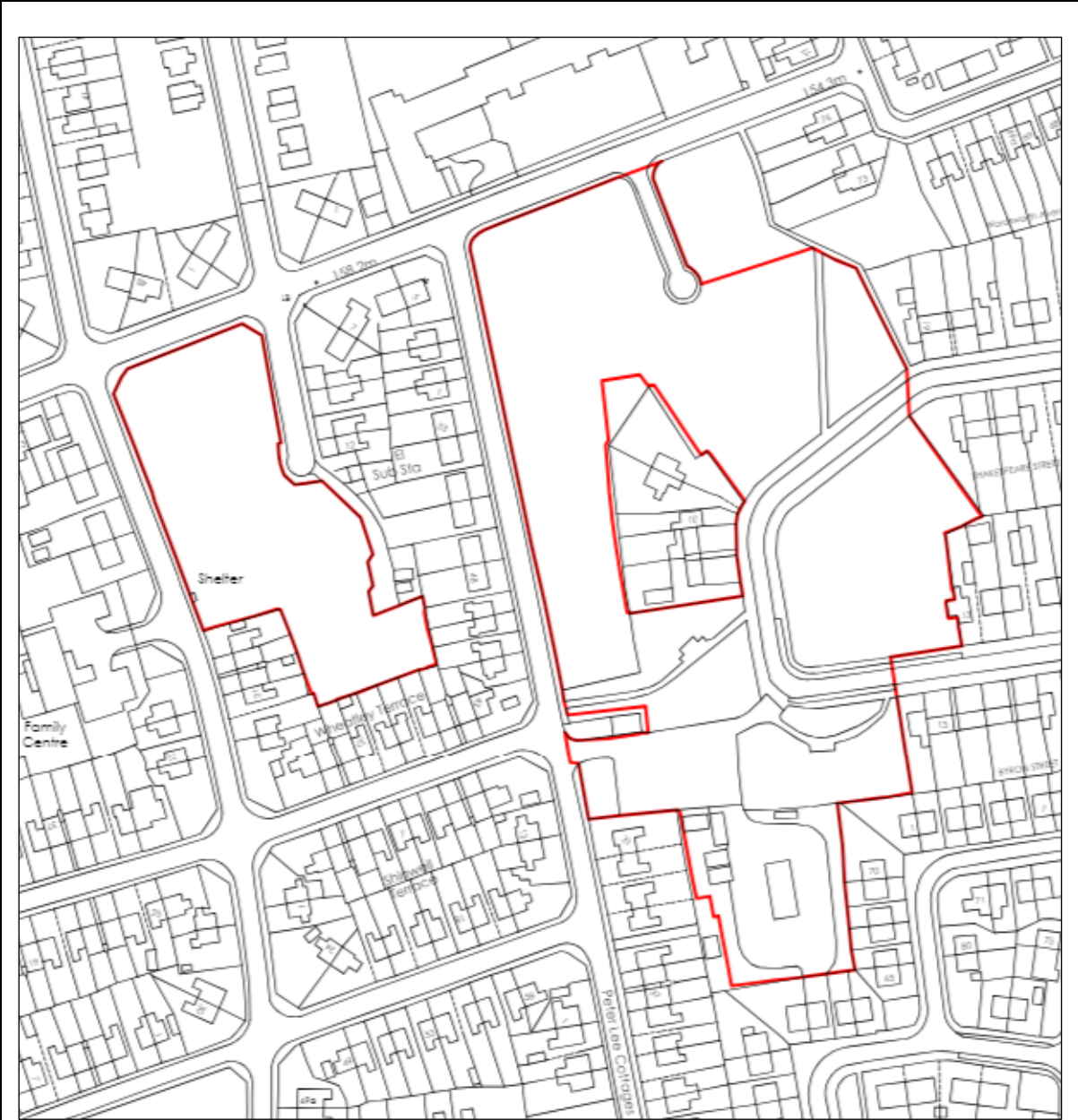
*Reason: In the interests of residential amenity as required by Policy 31 of the Durham County Plan and Part 15 of the national Planning Policy Framework.*

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## **BACKGROUND PAPERS**

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- Submitted Application Forms, Plans and supporting documents
  - National Planning Policy Framework
  - National Planning Practice Guidance Notes
  - County Durham Plan (2020)
  - Trees, Woodlands and Hedges SPD (2024)
  - Development Viability, Affordable Housing and Financial Contributions SPD (2024)
  - Residential Amenity Standards SPD (2023)
  - Parking and Accessibility SPD (2023)
  - County Durham Plan Strategic Housing Land Availability Assessment (2019)
  - Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham (2019)
  - County Durham Building for Life SPD (2019)
  - County Durham Settlement Study (2018)
  - Durham County Council Open Space Needs Assessment (2018)
  - CIHT Better Planning, Better Transport, Better Places (2019)  
<https://www.ciht.org.uk/knowledge-resource-centre/resources/better-planning-better-transport-better-places/>
  - CIHT Planning for Walking (2015)  
[https://www.ciht.org.uk/media/4465/planning\\_for\\_walking\\_-\\_long\\_-\\_april\\_2015.pdf](https://www.ciht.org.uk/media/4465/planning_for_walking_-_long_-_april_2015.pdf)
  - CIRIA The SuDS Manual (2015)
  - Sustrans: Walkable neighbourhoods - Building in the right places to reduce car dependency (2022) <https://www.sustrans.org.uk/media/10520/walkable-neighbourhoods-report.pdf>
  - Statutory consultation responses
  - Internal consultation responses
  - External consultation responses
- \*The King's Fund is an independent think tank and charity, which is involved with work relating to the health system in England  
<https://www.kingsfund.org.uk/insight-and-analysis/long-reads/dentistry-england-explained>



<p><b>Planning Services</b></p>	<p>Full planning application for the erection of 73 no. 2, 3 and 4 bedroom two-storey dwellings and bungalows with associated infrastructure.</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>Not to Scale</p>	
	<p>Date: December 2024</p>	

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/24/01875/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from a C3 Dwellinghouse (Use Class C3) to a HMO (Use Class C4)
<b>NAME OF APPLICANT:</b>	Mr Mcconway
<b>ADDRESS:</b>	28 Herons Court Durham Durham DH1 2HD
<b>ELECTORAL DIVISION:</b>	Belmont
<b>CASE OFFICER:</b>	Clare Walton Planning Officer Clare.Walton@durham.gov.uk 03000 261060

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site relates to a two-storey detached property located within Herons Court Gilesgate. Durham City Centre is located to the west of the property, however, in close proximity to the east is Dragon Lane Retail Park and Tesco Extra. The property is currently in use as a four-bedroom dwellinghouse falling within Class C3 of the Town and Country Planning (Uses Classes) Order, and benefits from a driveway to the front with detached garage and private garden amenity space to the rear.

#### The Proposal

2. The application seeks planning permission for the conversion of a four bedroomed C3 dwellinghouse into a four bedroomed C4 house in multiple occupation (HMO) with cycle storage provision proposed within the existing garage and bin storage to the front of the property adjacent to the garage.
3. The application is reported to planning committee at the request of the Belmont Parish Council which considers the applicants contention that the proposed change satisfies sustainable development, as set out in the National Planning Policy Framework is not supported by any evidence to justify the economic, social and environmental viability of the area will be improved. The Parish Council consider that these issues are such that they require consideration by the Committee.

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## **PLANNING HISTORY**

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4. Erection of two storey pitched roof extension to rear and provision of a hard surface to front of existing dwelling. Approved 25.11.2014

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
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 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.
13. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

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

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

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

##### The County Durham Plan

15. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
16. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
17. Policy 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.

18. Policy 21 (Delivering Sustainable Transport) Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
19. Policy 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
20. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
21. Policy 41 (Biodiversity and Geodiversity) sets out that proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks.
22. The Council's Residential Amenity Standards Supplementary Planning Document (RASSPD) sets out guidance for all residential development across County Durham and will form a material planning consideration in the determination of appropriate planning applications. It sets out the standards Durham County Council will require in order to achieve the Council's commitment to ensure new development enhances and complements existing areas, in line with the aims of the County Durham Plan.
23. The Council's Parking and Accessibility Standards Supplementary Planning Document (PASPD) supports Planning Policy 21 (Delivering Sustainable Transport) of the County Durham Plan and should be read in conjunction with the Councils Building for Life SPD, Residential Amenity SPD and the Highway Design Guide. The PASPD sets out guidelines for car and cycle parking that are to be applied equally across the county and for development to be situated within an accessible location.

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



24. The application site is located within the Belmont Neighbourhood Plan area. However, the plan is not at a stage to which regard is to be had.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

25. The Highway Authority raises no objection to the application.
26. Belmont Parish Council objects to the proposed change of use as it threatens the established community and unbalance of Frank Street populated by young families and long standing residents, there is no need for additional student accommodation, confirmed by Durham university. The parish council question the methodology which is relying on Section 10 directive linked to the County Durham Plan derived from a Council Tax data extract and have formally requested a review of the County Durham Plan Policy 16 and in particular the Article 4 Direction.

### INTERNAL CONSULTEE RESPONSES:

27. HMO Data have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 8.9% there are no unimplemented consents within the 100m radius.
28. HMO Licensing have advised that the development would not require to be licensed under Part 2 of The Housing Act 2004. However, they have provided additional information on the works required to ensure compliance with all of Durham County Council's HMO Fire Safety, Amenity and Space Standards.
29. Environmental Health Nuisance Team advised that the information submitted demonstrates that the application complies with the thresholds stated within the TANS, which would indicate that the development will not lead to an adverse impact and is unlikely to cause a statutory nuisance. They recommend that a tenant management plan is submitted detailing how tenant behaviour including noise will be managed.
30. Spatial Policy Team advises that proposed development will not result in the 10% threshold being exceeded. An acceptable levels of amenity should be provided and a suitable quality of cycle and car parking provided in accordance with Policy 16. Policy 29 (Sustainable Design) of the CDP requires all development proposals to achieve well designed buildings and places. The policy details a number of criteria to ensure new development contributes positively to an area, creates adaptable spaces, minimising emissions from the use of non-renewable and unsustainable resources, provides a high level of amenity and contributes towards healthy neighbourhoods. There is a study room that would not be suitable for a bedroom, it is therefore recommended that a condition is put on the application that any approval would be for a 4 bed HMO.

## PUBLIC RESPONSES:

31. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. Two letters of objections have been received including from the City of Durham Trust, these are summarised below:-
- Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance, extra rubbish caused by students.
  - Impact upon parking and highway safety
  - Impact upon social cohesion in that the introduction of an additional HMO would imbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential areas
  - Impact on the Character and Appearance of the area, specifically that landlords of HMO properties neglect them, and properties become looking deteriorated.
  - CDP requires development to be accessible to bus stops, however, there is not excellent public transport links.
  - HMOs pay no council tax
  - Permissions are granted but works are carried out not in accordance with the approval and the developers apply again for the works retrospectively which don't get refused.
  - 4 Monks Crescent was refused as the scheme would unbalance the community, detrimentally impacting community cohesion and amenity of residents from increased noise and disturbance, should this not be applied on any residential estate
  - Layout of rooms comprises the privacy, safety and security of the respective occupants and some rooms could be used as extra bedrooms on the ground floor
  - The cycle storage would remove a parking space and the existing parking space fails to meet the necessary dimensions.

*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>*

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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

### Principle of the Development

33. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation - HMOs) without requiring express planning permission. A small HMO is where between three

and six unrelated individuals live together in a property considered to be their only or main residence and who share basic amenities such as a kitchen or bathroom. The proposed floor plans submitted with the application indicate that the scheme is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 direction is now in force which withdraws permitted development rights for change of use from C3 to C4, therefore an express planning permission is required.

34. The proposal relates to the change of use from a 4 bedroom dwellinghouse (Use Class C3) to a 4-bed HMO (Use Class C4). Other works involve internal alterations, and creation of cycle storage. The dwellings current layout is broadly traditional with 4-bedrooms to the first floor with a small study and kitchen/dining room/lounge to the ground floor.
35. 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.
36. The site is within the built-up area of Gilesgate and occupies a broadly sustainable location and as such the principle of development can draw support from Policy 6, subject to compliance with the criteria listed. In relation to criteria a) and b), it is considered that the conversion of the building into a small HMO in this location would be compatible with adjoining residential uses and would not be prejudicial to any existing or permitted adjacent uses, subject to detailed consideration of the impact of the development on residential amenity, which is assessed in more detail elsewhere in this report. The development would not lead to the coalescence of settlements and there are no concerns that the proposal would lead to inappropriate ribbon development, nor that it would be considered inappropriate backland development.
37. The development would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and the site is noted as being within a

sustainable location, within Gilesgate on the outskirts of Durham City Centre where there is a wide range of facilities and access to sustainable modes of transport (criteria f). The site would not result in the loss of a settlement's or neighbourhood's valued facility or service (criteria g) given that the site relates to a detached dwellinghouse, and therefore the development makes best use of previously developed land (criteria i). The requirements of criteria d, e, h of policy 6 are considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.

38. The development to change the use of a dwellinghouse (C3) into a small HMO (C4) sited in a sustainable location would therefore be considered to comply with Policy 6 of the CDP and the principle of development can draw some support from Policy 6 in this regard.

39. In addition to Policy 6, Part 3 of CDP Policy 16 is also relevant which relates to 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.*

40. It is noted that objections have been received from neighbouring residents, Durham City Trust and Belmont Parish Council raising concerns that approving this application would bring the number of HMOs in the area above the 10%. In addition, concerns have also been raised regarding how the HMO data is collected and the methodology used in Policy 16, Part 3 of the CDP. With regard to the latter, it is noted that the policy and the methodology contained within Policy 16 was considered sufficiently accurate and robust during the examination in public of the CDP in 2020. The Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with this policy. Furthermore, Planning Inspectors, have assessed the appeals against the CDP and have not disputed the methodology behind Policy 16.
41. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a small HMO within 100 metre radius of and including 28 Herons Court, 8.9% of properties would be Class N exempt student properties as defined by Council Tax records. There are no unimplemented consents or applications pending determination within 100m radius of the application site. As such the proposal would comply with criteria 'a' and 'b' in this respect. In terms of criteria 'c', the application site is within a residential area but is not on a street that could be considered a primary access route between Purpose Built Student Accommodation and the town centre, or a university campus, and therefore the development would comply with Policy 16 in this respect.
42. As this concentration of Class N Student Exempt properties would be below the 10% threshold stated in the CDP, the development would comply with policy 16, Part 3, criteria a) and b) (criteria c) not being relevant) and as such is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and the impact of the proposal upon residential amenity, highway safety and ecology.
43. Objections have also been received that the application fails to demonstrate need for accommodation of this type in this location, and that there is a surplus of student accommodation within Durham City with a high volume of HMOs being currently vacant. However, whilst Part 2 of policy 16 requires need for additional PBSA accommodation to be demonstrated (along with a number of other requirements) this is not a requirement of Part 3 of Policy 16, and it is this part of Policy 16 against which the application must be assessed. As already noted, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16. The lack of any specific information with regards to need can therefore be afforded no weight in the determination of this application and would not outweigh compliance with Policy 16, Part 3. In relation to need, it is recognised that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration.
44. Paragraph 63 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given no more than 10% of properties within 100m radius of the application site are Class N exempt, this would remain the case post development,

should permission for the current change of use be granted the aims of Paragraph 63 would be met.

45. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential areas? Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which seeks to strike an appropriate balance through the threshold of no more than 10% of properties being in HMO use. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application
46. Taking account of the above, it is considered that the principal of development is acceptable, and the proposal would accord with the requirements of Policy 16 of the CDP and Paragraph 63 of the NPPF in this regard.

### **Impact on residential amenity**

47. 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. Policy 31 (Amenity and Pollution) of the CDP displays broad accordance with the aims of 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.
48. In this instance the application site is a detached property located within a residential area and as such the nearest residential property is sited directly to its east with further residential properties to the north and south, to the west lies the New Durham Working Men's Club.
49. The development would fall within the thresholds associated with Council's Technical Advice Notes (TANS) relating to noise. Although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity in terms of comings and goings at the property. The demographic that uses this type of accommodation are often associated with greater use of the night-time economy and as such an increased level of night-time noise may occur. However, this is anecdotal, as the potential for impact is associated with the personal habits of the individuals residing there and as such, might differ greatly and recent appeal decisions have established that it is unreasonable to assume that all students conduct themselves in a less than responsible manner.

50. The application site is located within a residential area. The impact of the development upon residential amenity is a material consideration in determination of the application. In most cases, it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to be within acceptable levels subject to planning conditions where there is no over proliferation of C4 uses. Where an HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused several previous planning applications in this regard and proved successful in defending those at appeal. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site, and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.
51. Notwithstanding the above, the applicant has submitted a 'Management Plan' in support of the application which states that the property would be maintained by the applicant, which details matters around safety, noise, anti-social behaviour and penalties should any of these be breached. However, it is noted that the document is akin to a tenancy agreement rather than the specific management of the site and how the applicants would ensure appropriate management is carried out. Nor does the management plan contain any landlord contact details. Accordingly, officers consider that the submitted Management Plan is not fit for purpose and recommend that should the committee be minded to grant planning permission, the submission, agreement and implementation of precise details of a management plan be secured through planning condition. It should be noted that the Council's Environmental Health Noise Action Team raised no objection to the application but have not commented in response to the submitted 'Management Plan'. Therefore, subject to the inclusion of a planning condition in this regard, the development is considered to accord with the requirements of policies 16 and 31 of the CDP.
52. The Durham City Trust raised concerns that there is a door between bedroom 1 and 4 which makes these rooms interlinked. Whilst this degree of interconnectivity is not considered unacceptable in planning terms, the applicant has submitted an amended proposed floor plan removing this door, replacing it with an appropriate stud wall. Further concerns have been raised in regard to the need for fire doors separating rooms to the ground floor, whilst this has been noted and passed to the applicant, such matters are not material to the determination of this application. Guidance is clear in such respects that the planning system should not mirror or duplicate other legislative controls. Based on the above the proposal is considered to provide safe and secure accommodation in accordance with policy 16 Part 3 criteria g.
53. The house is detached and located at the end of a cul-de-sac, The applicant has stated that during remodelling of the house in 2015 soundproofing was added between walls and floors, the proposal would see no bedrooms to the ground floor and it is not considered that there would be any unacceptable transfer of noise to neighbouring properties, and as already noted the Council's EHO Noise Action Team makes no objection to the application in this regard.
54. The property includes adequate external space to accommodate sufficient cycle and bin storage located within the garden and therefore accords with criteria e) of Part 3 to Policy 16. In addition, it is considered there is sufficient external amenity space to serve the inhabitants in accordance with policy 16 of the CDP.

55. 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.
56. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
57. With regard to the above it is noted that the proposal is considered to provide an acceptable amount of internal space in accordance with policy 29(e) of the CDP. Objections have noted that there is an additional reception room to the ground floor which although not currently identified as a bedroom could easily be occupied for that purpose with no internal works required. Objections also note that any future subdivision to the first-floor layout to create additional bedrooms would likely result in those falling below minimum space standards set out in the NDSS. Whilst the use of the ground floor reception room as a bedroom would meet minimum NDSS standards there would likely be transfer of noise between the adjacent property and the application site and also between other habitable rooms within the C4 use such as living and dining area. As such, the use of this room for this purpose without appropriate mitigation to attenuate noise transfer would be harmful to residential amenity. Consequently, it is considered appropriate to restrict the number of occupants of the small HMO to no more than 4 at any one time to the first floor only.
58. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 4 bedspace, 4 person dwellings. However, it does include standards in relation to 4 bedspace 5 person dwellings and it is noted that this requires an overall area of no less than 97sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide internal space delivering approximately 130sq metres of total internal floorspace which exceeds the amount required. The existing bedrooms all meet the required standards set out in the NDSS, bedroom 1 would have an internal floor space of 14sqm with the use of an ensuite, bedroom 2 14.9sqm, bedroom 3 12.4sqm and bedroom 4 13.1sqm, these rooms all exceed the 2.15m width required and all have access to the main bathroom. There is a small study which is too small to be used as a bedroom measuring approx. 6sqm only.
59. Therefore, overall, the proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(e) and policy 16.3 of the CDP and Paragraph 135 of the NPPF.

### **Impact on the character and appearance of the area**

60. 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.

61. Objection from a neighbouring resident has been raised stating that HMOs have a negative impact on the residential housing estate, due to them not being adequately maintained and that students are short term occupiers with no stake in local community. Further concerns are raised that the general appearance of the property would deteriorate as a consequence of the proposed use, there is no evidence that this would occur, and the applicant has reiterated that the property would be appropriately maintained. There are also separate planning powers available to address untidy land and buildings should such issues arise.
62. There are no external alterations proposed and it is therefore considered that the proposed development would fit with the character and appearance of the area and would not have a detrimental impact on the appearance of the wider streetscene.
63. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

### **Highway Safety and Access**

64. 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.
65. An objection from a neighbouring property raises concern that the development would increase the already existing parking problems and would have an impact upon highway safety.
66. Further objections from the Durham Civic Trust were also raised that the use of the garage would result in a loss of a parking space which is already inadequate and does not meet current standards and no EV charging point is proposed.
67. The application proposes the change of use from 4 bed property, which would have an existing parking requirement of 3 spaces. The Highway Authority offers no objection to the application and does not consider there would be any adverse impact in terms of highway safety as a result of the proposals. In terms of an EV charging point, they confirm that this requirement relates to new builds and as such is not a policy requirement in this instance.
68. Concerns have been raised that the change of use would increase the presence of parked vehicles within surrounding streets. However, given the provision of in curtilage parking in accordance with the Council's Parking Standards it is not considered that there would be any unacceptable increase in demand for on street parking or any subsequent vehicle displacement that would adversely impact upon highway safety. In instances where vehicles currently obstruct the adopted footway, this is subject to legislative control via the Highways Act and as such cannot be afforded weight in determination of this application.
69. Cycle storage is shown on the proposed cycle and bin storage layout plan as being inside the garage, however it is noted that the garage does currently contribute to the

parking provision for the property and the applicant has been informed that alternative cycle storage should be provided, as such it is recommended should approval be granted, to include a planning condition to secure provision of the cycle storage prior to first occupation of the C4 use and for its retention whilst the property is in use as a small HMO.

70. Therefore, notwithstanding the concerns raised by residents and the Parish Council in relation to parking, it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of policy 16.3 and 21 of the CDP and paragraph 114 of the NPPF.

## **Ecology**

71. 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. In line with this, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
72. 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 permitted development which includes development which does not impact on any onsite property habitat and where there is an impact this must be less than 25 square metres of onsite habitat.
73. The development relates to a dwellinghouse and as such falls within the exemption listed above and as such the development is considered to be exempt from requirement to deliver 10% net increase in biodiversity net gain. The development therefore accords with the aims of policy 41 of the CDP, Part 15 of the NPPF and Schedule 7A of the Town and Country Planning Act 1990.

### **Other matters**

With regard to the assertion from objectors that HMOs do not pay Council tax, this is incorrect as only HMOs occupied by students are exempt from Council tax. HMOs occupied by those who are not students will have to pay Council tax. In any event, this is not a consideration to which weight can be afforded in the assessment of this application.

An objector has also expressed concern that in the past HMO permissions have been granted but any operational development works permitted have not been carried out in accordance with approved plans, thereby occasioning retrospective applications. Whilst this has indeed occurred on some developments in the past, it is not considered material to the assessment of this application which must be undertaken on its own planning merits.

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## **CONCLUSION**

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74. In summary, it is considered that the principle of development is acceptable and would accord with the aims of policies 6 and 16 of the CDP subject to appropriate planning conditions described within the report and listed below.
75. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a small HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, nor would it result in an unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs, highway safety or ecology (including biodiversity net gain) in accordance with policies 6, 16, 21, 29, 31 and 41 of the County Durham Plan and parts 9, 12 and 15 of the NPPF.

#### Public Sector Equality Duty

76. 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.
77. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **RECOMMENDATION**

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

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

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

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

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

3. Prior to the first occupation of the development hereby approved, a property management plan shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall include landlord contact information and details of those specific controls to mitigate the impact on residential amenity from noise, disturbance, and anti-social behaviour along with measures to secure the property outside term times or when the property is vacant for long periods. The development shall thereafter be managed in accordance with the agreed detail.

Reason: In the interest of the amenities of the area in accordance with Policies 16, 29 and 31 of the County Durham Plan and Parts 12 and 15 National Planning Policy Framework

4. The small HMO hereby approved shall be occupied by no more than a maximum of 4 permanent tenants at any one time.

Reason: To protect residential amenity in accordance with the requirements of Policies 29 and 31 of the CDP

5. None of the rooms to the ground floor shall be occupied as bedrooms.

Reason: To protect residential amenity in accordance with the requirements of Policies 29 and 31 of the CDP.

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

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

7. Prior to the first use of the HMO hereby approved, the bin storage arrangements as shown on the block plan layout plan received on the 24<sup>th</sup> July 2024 shall be set out and available for use. Thereafter, this provision shall remain available for use for the purpose of bin storage for as long as the property is in use as a small HMO.

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

8. The existing parking provision which consists of a detached garage and two in curtilage parking spaces to the front of the property as shown on the block plan received on the 24<sup>th</sup> July 2024 shall be retained and available for use for parking vehicles at all times for the as long as the property is in use as a small HMO.

Reason: To ensure the property is served by a sufficient amount of in-curtilage car parking space in accordance with Policy 21 of the County Durham Plan and the Council's Parking and Accessibility Standards 2023.

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## **ADDITIONAL MATTERS**

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

Statutory, internal, and public consultation responses

The National Planning Policy Framework (2023)

Technical housing standards – nationally described space standard (2015)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Durham County Council Residential Amenity Standards SPD (2022)

Durham County Council Parking and Accessibility SPD (2023)



<p><b>Planning Services</b></p>	<p>DM/24/01875/FPA Change of use from dwellinghouse (C3) to house in multiple occupation (HMO) (C4), bin and cycle storage at 28 Herons Court Gilesgate Durham DH1 2HD</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>		
	<p>10/12/24</p>	<p><b>NTS</b></p>



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/24/02792/AD
Full Application Description:	Display of 2 no. externally illuminated fascia signs, 2 no. non-illuminated ACM panels, 4 no. poster cases and window vinyls/manifestations
Name of Applicant:	Ms Reena Colins
Address:	How Do You Do York Road Peterlee SR8 2DP
Electoral Division:	Peterlee West
Case Officer:	Michelle Penman (Planning Officer) Tel: 03000 263963 Email: michelle.penman@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site relates to a former restaurant, situated within an existing mixed-use building, which has recently been granted planning permission for change of use and conversion to a local convenience store. The site is located on the outskirts of Peterlee to the north of the main town centre.
2. The building is situated within a predominantly residential area; however, a local amenities centre is positioned immediately to the north of the site and comprises a post office, betting shop and other local businesses.

#### The Proposal

3. The application seeks advertisement consent for the display of two externally illuminated fascia signs, including one to the front above the new shop front and

one to the side; two non-illuminated aluminium composite material (ACM) panels; four poster cases and window vinyls/manifestations. The fascia signs would be illuminated externally by means of trough lights.

4. The application is reported to Central and East Planning Committee at the request of Councillor Louise Fenwick and Councillor Susan McDonnell due to concerns around the impacts of the illuminated signage on the amenity of neighbouring residents.

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## **RELEVANT PLANNING HISTORY**

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

DM/24/00426/FPA Change of use of restaurant to local convenience shop together with extension, new shop front, and external plant and bin enclosure. Approved 14.05.2024.

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## **PLANNING POLICY**

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### **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 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
10. *NPPF Part 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.



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

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

#### **National Planning Practice Guidance:**

12. 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; light pollution; use of planning conditions.

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

#### **Local Plan Policy:**

The County Durham Plan (CDP)

13. *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.
14. *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.

15. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development.

#### **Neighbourhood Plan:**

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

#### **Advertisement Regulations:**

17. The display of advertisements is subject to a separate consent process within the planning system. This is principally set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended).

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## **CONSULTATION AND PUBLICITY RESPONSES**

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

18. *Highways Authority – no objection – details contained within report.*

#### **Internal Consultee Responses:**

19. *Environmental Health and Consumer Protection (Nuisance) – raise no objections, subject to conditions restricting the hours and levels of illumination.*

#### **Public Responses:**

20. The application has been advertised by site notice and individual notification letters sent to neighbouring properties.
21. No letters of representation have been received from local residents at the time of publishing this report.

#### **Elected Members**

22. Councillor Louise Fenwick raised concerns in relation to the illuminance levels of the proposed signage and the impact this would have on residents living in the bungalows opposite to the development.

23. Councillor Susan McDonnell also raised concerns in relation to the illuminated signage which she does not consider are required, given the existing lampposts on York Road, and considers the signs will glare into the windows of the bungalows opposite.

*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:**

24. None received prior to publication.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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25. 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.
26. 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.
27. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Residential Amenity, Visual Amenity, Public Safety, and Public Sector Equality Duty.

### Principle of Development

28. The National Planning Practice Guidance (NPPG) and The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) stipulate that advertisements should only be subject to control in the interests of amenity and public safety, taking into account the provisions of the development plan where material and any other relevant factors.
29. 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.
30. CDP Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built-up area but well related to a settlement, provided the proposals accords with all relevant development plan policies and, among other criteria, is compatible with, and is not prejudicial to,

any existing, allocated or permitted use of adjacent land; and is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement.

31. The application relates to the display of advertisements at the new convenience shop which was recently approved under planning permission DM/24/00426/FPA. On that basis, it is considered that the principle of development has been established by the previous permission and the current application for advertisement consent relates directly to the approved development. The application is therefore considered to be acceptable in accordance with CDP Policy 6, subject to more detailed consideration of relevant issues below.

#### Residential Amenity

32. NPPF paragraph 135 (f) requires planning decisions to create places which promote health and well-being, with a high standard of amenity for existing and future users and do not undermine the quality of life or community cohesion and resilience.
33. CDP Policy 31 (Amenity and Pollution) of the CDP displays broad accordance with the aims of Paragraph 135 and sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. Development will not be permitted where light pollution is not suitably minimised.
34. CDP Policy 29 (e) (Sustainable Design) also requires that development provides high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
35. The proposals include the display of one fascia sign to the front of the shop, to be externally illuminated by trough lights, with two non-illuminated ACM panels on either side of the entrance. To the side elevation an additional fascia sign, also to be illuminated by trough lights, would be displayed along with four non-illuminated lockable poster signs.
36. Concerns have been raised by both Councillor Louise Fenwick and Councillor Susan McDonnell in relation to impacts of the illuminated signage on neighbouring residents, particular those located in the bungalows opposite to the development.
37. The Council's Environmental Health Nuisance Action team (EHNAT) have been consulted on the application and have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant TANs. They advise that the information submitted demonstrates that the application complies with the thresholds stated within the lighting TANS which would indicate that the development would not lead to an adverse impact.

38. The EHNAT note that the application is located within a mixed-use area of commercial businesses, takeaways, and residential properties and the area is lit by a small number of traditional style lamp posts with not many other sources of light. They also comment that the proposed brightness of the illuminated signs is 250 cdm-2 which is below the maximum levels permitted in Environmental Zone 2, an area of low district brightness within which it is considered that this site falls and a recognised environmental zone pertaining to lighting, and therefore gives confidence that the size and luminance levels would be of minimal impact.
39. Notwithstanding the above, EHNAT advise that there are residential properties directly opposite on York Road which face the shop and the ILP Professional lighting guide 05 recommends that for externally illuminated advertisements the reduction of light pollution should be applied. In particular, illumination should be switched off when not required. On that basis, they recommend conditions are attached to any consent granted to ensure the illumination is restricted to opening hours only and does not exceed 250 cdm-2, in order to protect the amenity of light sensitive receptors.
40. There will be a separation distance of approximately 43 metres between the new shopfront and advertisement and the front elevations of the nearest bungalows on the opposite side of York Road. Given the illumination levels are considered to be acceptable and there are intervening streetlights, it is not considered that the illuminated advertisement will have any significant additional impact over on residential amenity, over and above the existing situation.
41. In addition, ENHAT have assessed to the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990, and are satisfied that the development is unlikely to cause a statutory nuisance, provided the conditions discussed above are adhered to.
42. Taking all of the above into account, subject to conditions, it is not considered that the development would have any adverse impacts on the amenity of neighbouring residents in accordance with NPPF paragraph 135 (f) and CDP Policies 29 and 31.

#### Visual Amenity

43. NPPF paragraph 131 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 141 states that the quality and character of places can suffer when advertisements are poorly sited and designed and confirms that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
44. CDP Policy 29 requires development proposals to (a) contribute positively to an area's character, identity, and townscape features, helping to create and reinforce locally distinctive and sustainable communities. More specifically, in

relation to signage and adverts, CDP Policy 29 (q) requires proposals to ensure that they are appropriate and sympathetic to the local setting in terms of scale, design, lighting and materials and (r) are not detrimental to visual amenity of public highway safety.

45. The proposed fascia signs would comprise of 5mm thick blue acrylic (RAL 3020) one|stop logo with white vinyl lettering applied to the face and attached to a Red Matt folded Di bond fascia by 10mm clear split battens. The panels would comprise of aluminium panatrim frames finished in RAL 7016 with digitally printed ACM Panels. The poster cases would be finished in anodised silver.
46. The proposed design and colours of the signage reflects the branding of One Stop which intend to occupy the new unit. It is noted that there were previously signs to the front and side elevation serving the former restaurant and there are other signs displayed on the building and in the vicinity of the site, particularly within the adjacent shopping parade. The surrounding signs comprise of a variety of styles, sizes and designs and therefore it is considered that the proposed signs would be acceptable.
47. On that basis, the proposals are considered to have been appropriately designed in terms of colour and materials and would not look out of place or be unduly prominent. As such, the effect on the character and appearance of the street scene and surrounding area would be negligible. The development would therefore be considered to be in keeping with NPPF paragraphs 131 and 141 and CDP Policy 29.

#### Public Safety

48. In terms of public safety, the proposals are satisfactorily located and are not therefore considered to present a hazard for pedestrians or cause a distraction to passing motorists.
49. The Council's Highway Authority were consulted on the application and confirmed that they have no concerns in relation to the signs from a road safety perspective. They commented that they are fairly standard signs that can be seen on most shop fronts and there is minimal text which is easy for drivers to digest without causing distraction. The proposed lighting is the standard type used to illuminate fascia signs and the lighting is such that it is angled so it illuminates the sign only, and isn't something which could cause dazzle, glare or distraction to a driver.

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## **CONCLUSION**

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50. The National Planning Practice Guidance (NPPG) and The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) stipulate that advertisements should only be subject to control in the interests of amenity and public safety, taking into account the provisions of the development plan where material and any other relevant factors.

51. In this instance, it is concluded that the principle of the development has been established by the previous permission to convert and extend part of the building, comprising a former restaurant, to a local convenience shop. The concerns of Local Members are noted, however, subject to conditions, it is not considered that the proposed signage would have any adverse impacts on residential amenity and there would be no impacts on the character and appearance of the area or on public safety.
52. The development is therefore considered to accord with the Advertisement Regulations 2007, NPPF Parts 12 and 15 and CDP Policies 6, 29 and 31 and is therefore recommended for approval.

#### Public Sector Equality Duty

53. 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.
54. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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### **RECOMMENDATION**

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

1. This consent to display the advertisements is for a period of five years from the date of this consent.  
  
Reason: In order to comply with the Town and Country Planning (Control of Advertisements) Regulations 2007.
2. The development hereby approved shall be carried out in accordance with the approved plans listed in Part 3 - Approved Plans.  
  
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.
3. The advertisement(s) hereby approved shall:
  - a) Not be displayed without the permission of the owner(s) of the site on which they are displayed (this includes the highway authority, if the sign is to be placed on highway land);

b) No advertisement is to be displayed which would obscure, or hinder the interpretation of, official road, rail, waterway or aircraft signs, or otherwise make hazardous the use of these types of transport;

c) Any advertisement must be maintained in a condition that does not impair the visual amenity of the site;

d) Any advertisement hoarding or structure is to be kept in a condition which does not endanger the public; and

e) If an advertisement is required to be removed, the site must be left in a condition that does not endanger the public or impair visual amenity.

Reason: In order to comply with the Town and Country Planning (Control of Advertisements) Regulations 2007.

4. The advertisement(s) hereby granted consent shall not be illuminated between the hours of 2300 and 0700.

Reason: In the interests of the amenity of the surrounding area and neighbouring properties, in accordance with Policy 29 of the County Durham Plan and Paragraph 132 of the National Planning Policy Framework.

5. The 2 no. illuminated fascia signs hereby approved shall be illuminated by trough light only, in accordance with the submitted details, and the method of illumination shall be static and not intermittent and must not exceed 250 cd/m<sup>2</sup>.

Reason: In the interests of the amenity of the surrounding area and neighbouring properties, in accordance with Policies 29 and 31 of the County Durham Plan and Paragraph 132 of the National Planning Policy Framework.

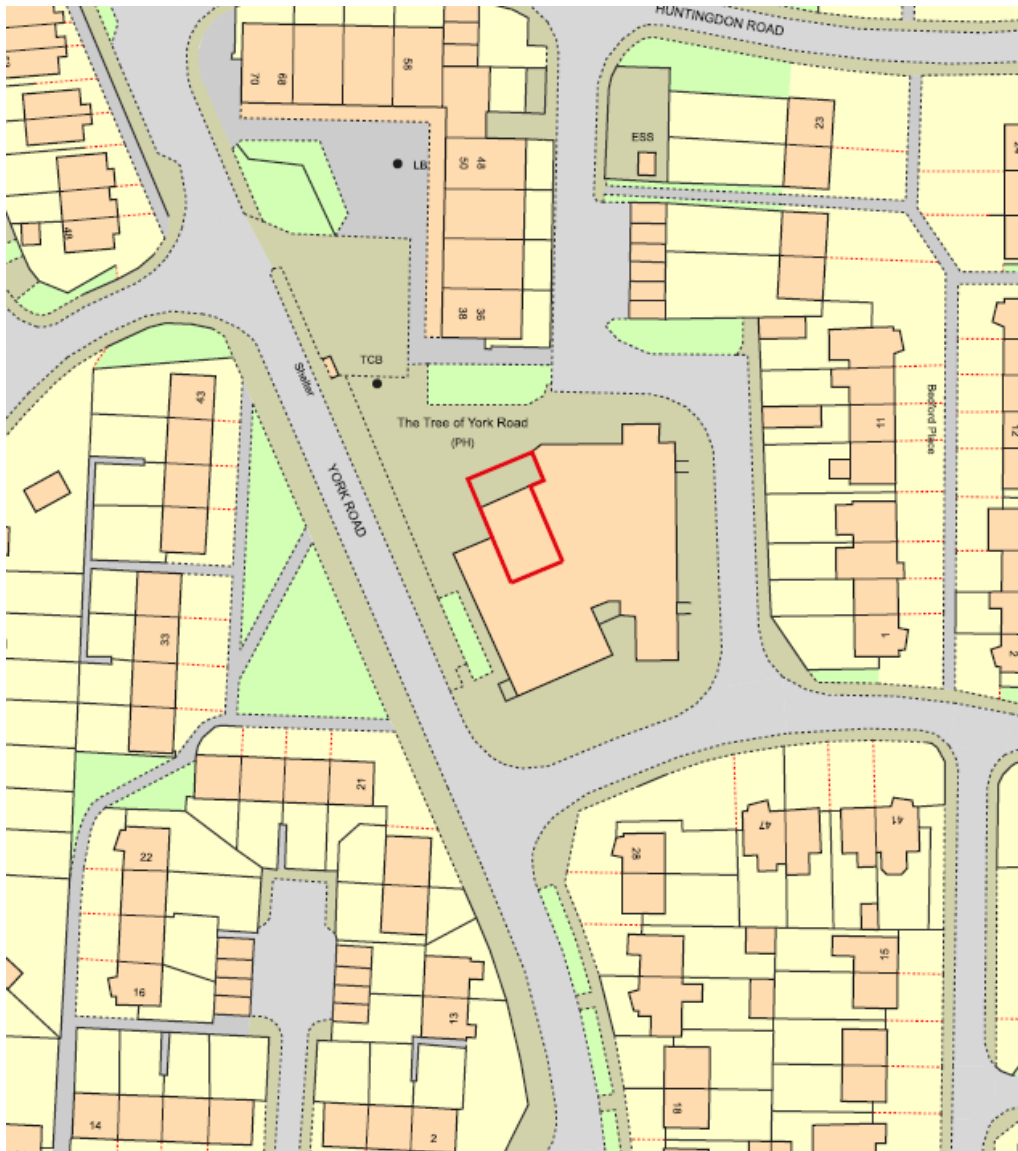
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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)  
National Planning Policy Framework  
National Planning Practice Guidance Notes  
County Durham Plan (2020)  
Internal consultation responses  
External consultation responses





**Planning Services**

Display of 2 no. externally illuminated fascia signs, 2 no. non-illuminated ACM panels, 4 no. poster cases and window vinyls/manifestations

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**Comments**

Date: 03.12.2024

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