



## Area Planning Committee (Central and East Durham)

**Date** Tuesday 8 May 2012  
**Time** 1.00 pm  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Minutes of the Meeting held on 10 April 2012 (Pages 1 - 6)
2. Declarations of Interest, if any
3. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) 4/12/00154/VOC - Plots 5N and Plot 5S Bishopsgate, 48 North End, Durham, DH1 4LW (Pages 7 - 26)

Variation of condition 2 of application 11/00748/FPA (Demolition of existing bungalow and erection of 2 no. dwelling houses) revising layout of site together with alterations to rear elevation of northern plot dwelling and roof profile on southern elevation of southern plot dwelling
  - b) PL/5/2011/0060 - Melrose Arms, Office Row, Front Street, Shotton Colliery DH6 2NA (Pages 27 - 36)

Change Of Use From Public House To Educational Centre (Class D1:Non-Residential Institutions)
  - c) PL/5/2011/0082 & PL/5/2011/0083 - The Castle, The Village, Castle Eden TS27 4SL (Pages 37 - 54)

Change Of Use from Residential to Hotel (C3 To C1) (Resubmission Including Revised and Additional Information) and Associated Listed Building Consent
  - d) PL/5/2012/0039 - 51 Ocean View, Blackhall TS27 4DA (Pages 55 - 60)

Front and Rear Two Storey Extensions
4. Appeal Update (Pages 61 - 62)

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

**Colette Longbottom**  
Head of Legal and Democratic Services

County Hall  
Durham

27 April 2012

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

Councillor C Walker (Chair)  
Councillor P Taylor (Vice-Chair)

Councillors J Bailey, A Bell, J Blakey, G Bleasdale, J Brown,  
P Charlton, D Freeman, S Iveson, A Laing, R Liddle, J Moran,  
J Robinson, K Thompson and B Wilson

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**DURHAM COUNTY COUNCIL**

**AREA PLANNING COMMITTEE (CENTRAL AND EAST DURHAM)**

At a Meeting of **Area Planning Committee (Central and East Durham)** held in Council Chamber, County Hall, Durham on **Tuesday 10 April 2012 at 1.00 pm**

**Present:**

**Councillor C Walker (Chair)**

**Members of the Committee:**

Councillors P Taylor (Vice-Chair), A Bell, J Blakey, G Bleasdale, P Charlton, R Liddle, J Robinson, K Thompson, B Wilson, M Dixon (substitute for J Moran), G Holland (substitute for D Freeman) and A Naylor (substitute for A Laing)

**Apologies:**

Apologies for absence were received from Councillors J Bailey, J Brown, D Freeman, S Iveson, A Laing and J Moran

**Also Present:**

J Taylor – Principal Planning Officer (Durham Area)  
A Dobie – Principal Planning Officer (Easington Area)  
N Thompson – Highways Officer  
C Cuskin – Legal Officer

**1 Minutes of the Last Meeting held on 13 March 2012**

The Minutes of the meeting held on 13 March 2012 were confirmed as a correct record and were signed by the Chair.

**2 Declarations of Interest, if any**

There were no declarations of interest submitted.

**3 Applications to be determined by the Area Planning Committee (Central & East Durham)**

**3a 4/11/00993/FPA - Former Durham Johnston Annex, Redhills Lane, Durham  
Erection of 14 no. Dwellings along with Associated Access, Roadways, Parking and Landscaping**

Consideration was given to the report of the Principal Planning Officer (Durham Area) in relation to the above application, a copy of which had been circulated.

The Principal Planning Officer gave a detailed presentation which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

Councillor N Martin, local Member spoke in support of the application. He considered that this was an important development on land which had been identified as surplus to educational requirements, and the scheme would improve an unused site containing dilapidated buildings. The proposed dwellinghouses would be restricted to 2 storey with no accommodation proposed in the roof space. Concerns expressed about the impact on longer distance views were addressed in the report and he stressed the importance of retaining/improving hedging and trees to the east of the site.

Councillor Martin also made reference to the proposed Section 106 Agreement. There was no formal play area in close proximity to the site and it was difficult to envisage where this facility could be located. He asked if local Members could be consulted on the allocation of Section 106 monies for the provision of amenity space/play space equipment. The views expressed by Councillor Martin were also endorsed by Councillor Holland, local Member.

Mr and Mrs Adams, local residents addressed the Committee against the application. Mr Adams stated that the land to the east of the buildings had been used for school sports on a number of occasions and he therefore did not consider it to be surplus to educational requirements. Mrs Adams asked what safeguards there were to ensure that the developers adhered to submitted plans in terms of design and layout, the landscaping scheme, the protection of trees and hedging, and any future works.

The Principal Planning Officer responded that the land to the east of the site was classed as previously developed land and had been identified as surplus to requirements by the Local Education Authority. The Council's Planning Enforcement Section would ensure that planning conditions were adhered to, and conditions 6 and 7 in the report addressed the objectors' concerns with regard to landscaping and tree/hedge works.

In discussing the application a Member referred to the low density of the site and the lack of affordable housing provision. In noting the Member's concerns, the Officer advised that due to the character and setting of the proposed development in this residential area, density was not a consideration and the development of executive houses was deemed to be acceptable. The 14 no. dwellings proposed fell below the threshold informed by the SHMA in terms of affordable housing provision.

Members agreed with the views of the local Members and it was

## **RESOLVED**

That

- (i) the application be approved subject to the conditions outlined in the report and to the applicant entering into a Section 106 agreement to

- secure the payment of a commuted sum for the provision or improvement of amenity space/play space equipment and for public art works;
- (ii) local Members be consulted on proposals for the allocation of the Section 106 monies for the provision of amenity space/play space equipment.

**3b 4/12/00179/FPA - Land at Stoneacre Garage, Sawmills Lane, Brandon  
Use of Land for Car Sales, Car Storage and Staff and Customer Parking**

Consideration was given to the report of the Principal Planning Officer (Durham Area) in relation to the above application, a copy of which had been circulated.

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site that day and were familiar with the location and setting.

The Principal Planning Officer gave details of a revised statement submitted by the applicant and Members were advised of amendments to condition 3 with regard to the parking layout. The application proposed 15 staff spaces, 22 customer spaces, 30 storage spaces and 27 for car sales.

Councillor J Turnbull, local Member addressed the Committee on behalf of local residents. He advised that local people did not have a problem with the location of the garage in the village but how the business had expanded over the years. Residents experienced problems using the footpath because of indiscriminately parked vehicles and the road was dangerous for pedestrians and for elderly people in particular who crossed the road to visit the doctor's surgery. Garage vehicles continued to park on the double yellow lines and enforcement measures were not being pursued by Durham County Council.

Mr Hutchinson, local resident spoke against the application. He stated that parking had not been an issue until the garage gave up the secure site on Littleburn Industrial Estate. He noted that the proposals included an increase in parking for car sales and he believed that cars from the bodyshop and other damaged vehicles would be parked elsewhere. This would have a detrimental effect on the street scene and neighbouring properties.

The landscaping proposed would not soften the impact of the development and unless the Council was prepared to police the site on a daily basis vehicles would continue to park on the unrestricted length of highway. The residents looked forward to close of business at the end of each day when it returned to a quiet, respectable residential area.

Mr Longstaff, the applicant's agent stated that the previous proposals had been dismissed on appeal, however the Inspector had outlined a clear way forward and guidance on how the impact could be mitigated. The Inspector's decision letter referred to the open space as a positive element in the street scene and that it would be possible to mitigate the loss by reducing the area available for car parking and retaining an effective landscaped strip between the car parking/display area and the road.

The revised application addressed the concerns of the Inspector by providing an effective landscaping strip between the car display area and the road. A landscaping scheme was also proposed to mitigate any impact on the character and appearance of the streetscene.

In respect of other issues raised in the LPA's Appeal statement, the Inspector had stated that there would be a marked improvement in the living conditions of local residents in relation to parking congestion and highway safety, the proposal would reduce pressure for on-street parking, would assist in the efficient operation of the existing business and whilst there would be a more visible sales area most of the net gain in the parking area would not increase vehicle display/storage capacity.

The Inspector's conclusions should be given significant weight in the determination of the current application. The remodelling of the site would allow for much needed improvements to how the site currently operated and would alleviate the potential for car parking conflicts on Sawmills Lane.

Members discussed the application and Councillor Taylor, local Member stated that having heard the comments of the Principal Planning Officer, local resident, Councillor Turnbull and the applicant's agent he was of the view that the purpose of the application was not to resolve the parking issues but to increase sales. He wanted the business to thrive and be a part of the community but local Members and residents had tried to work with the garage for many years to reach a solution without success, with the existing restrictions on Sawmills Lane continuing to be ignored. He had concerns for the safety of road users and pedestrians, and if approved the proposals would exacerbate the existing problems experienced.

The development would increase the volume of traffic to the detriment of highway safety with a significant effect on the amenity of neighbouring properties, and the proposals would also have a significant detrimental impact on the character and appearance of the surrounding residential area. He therefore considered that the proposals contravened Policies T1 and H13 of the City of Durham Local Plan 2004.

The Principal Planning Officer stated that the application proposed 22 customer parking spaces on a visible part of the site away from residential properties, and this should alleviate the obstruction on the highway. As parking would be allocated for specific uses, enforcement action could be pursued if this was disregarded. In response to a question about sustainable drainage Members were advised that existing drainage was adequate and would be further supported by the increased landscaping that was proposed.

The Highways Officer advised that the concerns expressed by the local Member in relation to the enforcement of the existing restrictions on Sawmills Lane would be referred to the Council's Enforcement Section.

A Member commented that this application was an opportunity for the applicants to resolve the issues at this location. However, having heard the representations submitted and having viewed the site the Committee did not consider that the proposals put forward would address the problems experienced by local residents and traffic travelling along Sawmills Lane.

## RESOLVED

That the application be refused for the following reasons:-

1. The development would generate a volume of traffic which would be detrimental to highway safety and would have a significant effect on the amenity of neighbouring properties - contrary to policy T1 of the City of Durham Local Plan 2004.
2. The development would have a significant detrimental impact upon the character and appearance of the surrounding residential area - contrary to policy H13 of the City of Durham Local Plan 2004.

### **3c PL/5/2011/0469 - Land opposite Moor View and adjacent Ashford Grove, Thornley Residential Development Comprising of 10 No. Dwellinghouses**

Consideration was given to the report of the Principal Planning Officer (Easington Area) in relation to the above application, a copy of which had been circulated.

The Principal Planning Officer gave a detailed presentation which included photographs of the site. Members were advised that the application was recommended for approval subject to the applicant entering into a Section 106 Agreement to secure a financial contribution of £5000 for the provision or improvement of off-site play areas.

## RESOLVED

That the application be approved subject to the applicant entering into a Section 106 agreement to secure a financial contribution of £5000 for the provision or improvement of off-site play areas, and to the conditions outlined in the report.

### **3d PL/5/2011/0494 - Land adjacent to Gore Hall Farm, Thornley Outline Application for Residential Development of 14 Semi-Detached/Terraced Dwellings**

Consideration was given to the report of the Principal Planning Officer (Easington Area) in relation to the above application, a copy of which had been circulated.

The Principal Planning Officer gave a detailed presentation on the main issues outlined in the report which included photographs of the site. He explained that the applicant would make a financial contribution of £7000 for the provision or improvement of off-site play areas. Members were also advised of additional comments/queries made by residents regarding the following:-

- Adequate open space should be provided with no serious adverse effect on the amenity of neighbouring residents or occupiers
- The design and layout of the development should ensure good access. The existing road was dangerous in bad weather
- Clarification of technical issues referred to by Highways

- Fly-tipping
- Anti-social behaviour

The Officer responded to the additional comments made. He advised that the comments about the provision of open space had been addressed in the report. The only feasible access was at the western end of the site adjacent to the estate road. The existing access road could adequately serve the additional properties without exacerbating problems in bad weather, and had not been objected to by Highways Officers. The technical issues referred to by the Highways Officer related to footpaths on the site and this would be dealt with at the reserved matters stage when the access and layout was considered.

Any problems regarding anti-social behaviour and fly-tipping would be resolved by development of the land.

Members discussed the application and Councillor B Wilson, local Member asked if consideration had been given to the provision of affordable housing on the site, and if the financial contribution by way of a Section 106 agreement could be used for amenities other than play areas, as Thornley was already well-served with these facilities. He also expressed concern about construction vehicles on the estate road which was used by school traffic.

In response the Member was advised that the proposal for 14 houses was below the threshold informed by the SHMA and therefore affordable housing was not proposed on this site. The Legal Officer advised that there was specific criteria for the allocation of Section 106 contributions linked to the provision of play facilities in accordance with Policy 66 of the District of Easington Local Plan, however it was suggested that local Members be consulted on any proposals. The concerns expressed relating to construction traffic would be dealt with at the reserved matters stage when conditions restricting hours of operation could be considered.

## **RESOLVED**

That

- (i) the application be approved subject to the completion of a Section 106 Agreement, and to the conditions outlined in the report;
- (ii) local Members be consulted on proposals for the allocation of the Section 106 monies.



# COMMITTEE REPORT

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## APPLICATION DETAILS

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**APPLICATION No:** 4/12/00154/VOC

**FULL APPLICATION DESCRIPTION:** Variation of condition 2 of application 11/00748/FPA (Demolition of existing bungalow and erection of 2 no. dwelling houses) revising layout of site together with alterations to rear elevation of northern plot dwelling and roof profile on southern elevation of southern plot dwelling

**NAME OF APPLICANT:** Oaktree Homes

**ADDRESS:** Plot 5N and Plot 5S Bishopsgate, 48 North End, Durham, DH1 4LW

**ELECTORAL DIVISION:** Elvet

**CASE OFFICER:** Henry Jones  
Senior Planning Officer 03000 263960  
henry.jones@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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The Site

1. The application site comprises the residential curtilage of The Nook (now demolished) and an adjacent parcel of land formerly within the curtilage of a nursing home at 48 North End. At the time of the determination of the full planning application to which this variation of condition relates the site contained a garage located at the northern end of the site providing access to North End, adjacent to this were two small outbuildings and beyond a parcel of vacant land which is part of a larger development site at 48 North End. The site borders the properties of Fieldhouse Lane to the west with a hedge and fencing.
2. Since the grant of this planning permission, works have commenced on site and are well advanced toward completion.
3. Trees are located beyond but within very close proximity to the application site, namely a large sycamore on the highway to north west protected by a tree preservation order, a cherry and silver birch located on the highway directly to the north of the site and a large leylandii located within the rear garden of No. 25 Fieldhouse Lane.

## The Proposal

4. This application seeks to vary condition 2 of planning permission 11/00748/FPA - demolition of existing bungalow and erection of 2 no. dwellinghouses. Condition 2 required that the development be implemented in accordance with the approved plans. For clarity the full wording of said condition was as follows;

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

*Plan 4 received 13th September 2011 and plans 1A, 3, 5B, 6A, 7B, 8A, 9B, received 28th November 2011*

*Reason: To define the consent and ensure a satisfactory form of development having regards to Policies , E16, H2, H13, T1, T10, Q8, U5, U8A and U11of the City of Durham Local Plan 2004.”*

5. Since the grant of this planning permission following December’s (2011) Planning Committee, works commenced on site and it became evident that there were some inconsistencies with the approved plans as well as some further design amendments, as described below:
6. The proximity of the dwellings as partly constructed on site was found to be closer to properties on Fieldhouse Lane.
7. The width across the application site (east-west) was found to be less than the approved plans showed. The depth of some garden spaces of properties on Fieldhouse Lane was found to be less than shown on the approved plans.
8. The depth (east-west) of the two dwellings as partly constructed on site was found to be slightly less than that on approved plans. On the side (southern) elevation of the southern plot two roof gable features were found to be incorrect with the westernmost gable feature lower than on approved plan and the easternmost gable feature higher than on approved plan.
9. In addition some additional changes are also proposed to the northernmost dwelling that being the removal of the two storey projecting bay to the rear (west) elevation, the removal of one bedroom at first floor and removal of a balcony area. A small single storey infill is proposed providing store and kitchen space on the northernmost dwelling. Rooflights have also been repositioned on the southernmost dwelling. A list in table form and marked up plan of the surveyed discrepancies between approved plans and that surveyed on site is attached as an addendum to this report for information.
10. In terms of the distances as depicted on the plans accompanying this application these have been confirmed through an independent survey by the County Council to ensure accuracy (appendix 1).
11. The application is being presented to Committee at the request of the local divisional member.

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## **PLANNING HISTORY**

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12. This application site in part comprises of land formerly within the curtilage of a nursing home which is presently being developed following the grant of planning permission in

2009 for 3 dwellings in full (plots 2, 3 and 4) and a further 4 dwellings (plots 1, 5, 6 and 7) in outline.

13. An application for works to protected trees including the felling of a lime and a cherry tree was also approved in 2011.
14. Later that year a retrospective application for an amended plot 4 dwelling was refused but later, following further revisions, a resubmission was approved.
15. The reserved matters for the plot 1 dwelling was also approved in 2011.
16. In November 2011 an application for the demolition of The Nook and erection of a single dwelling was approved. This application being a resubmission of an identical development approved in 2007.
17. In December 2011 planning permission was granted for the erection of 2 no. dwellings on land comprising of the former plot 5 site but also incorporating the land upon which The Nook bungalow was situated. This pending application seeks to vary condition 2 of this approval.
18. In March of this year full planning permission was granted for a single dwelling on the plot 6 site and a resubmitted reserved matters application for a single dwelling on the plot 1 site was also approved.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

19. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). The framework is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. Three main dimensions to sustainable development are described; economic, social and environmental factors. The presumption is detailed as being a golden thread running through both the plan making and decision-taking process. This means that where local plans are not up-to-date, or not a clear basis for decisions, development should be allowed. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Planning Policy Statements and Planning Policy Guidance Notes are cancelled as a result of the NPPF coming into force. The Regional Spatial Strategy remains part of the Development Plan until it is abolished by Order using powers within the Localism Act.

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at:*

<http://www.communities.gov.uk/publications/planningandbuilding/letternppf>

### **REGIONAL PLANNING POLICY**

20. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008*, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals

and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

21. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when the forthcoming Local Government Bill becomes law. Both the RSS and the stated intention to abolish are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. Policies of particular relevance to this application are as follows:
22. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
23. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
24. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
25. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
26. *Policy 24 - Delivering Sustainable Communities* states that planning proposals should seek through design to promote social cohesion, reduce inequalities as well as meeting sustainable development objectives.
27. *Policy 30 - Improving Inclusivity and Affordability* sets out that developments should provide a range of housing types and sizes responding to the needs of all members of the community as well as addressing affordability issues.
28. *Policy 33 - Biodiversity and Geodiversity* requires planning proposals to ensure that the Region's ecological and geological resources are protected and enhanced to return key biodiversity resources to viable levels.
29. *Policy 35 - Flood Risk* promotes a proactive approach to reducing flood risk and advises that risk should be managed with regards to tidal effects, fluvial flooding and flooding from surface water runoff. The requirements of PPS25 with regards to the sequential approach and submission of flood risk assessments.
30. *Policy 38 - Sustainable Construction* seeks to promote development which minimises energy consumption and promotes energy efficiency. On major development proposals 10% of their energy supply should come from decentralised and renewable or low-carbon sources.

**LOCAL PLAN POLICY: (City of Durham Local Plan 2004)**

31. *Policy E14 - Trees and Hedgerows* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual

trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.

32. *Policy E16 - Protection and Promotion of Nature Conservation* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
33. *Policy H2 - New Housing Development in Durham City* states that the development of previously developed, or 'brownfield' land will be permitted providing it accords with the more detailed development proposals of the Council.
34. *Policy H13 - Residential Areas – Impact upon Character and Amenity* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
35. *Policy T1 - Traffic – General* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
36. *Policy T10 - Parking – General Provision* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
37. *Policy Q8 - Layout and Design – Residential Development* sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
38. *Policy U5 - Pollution Prevention* seeks to control development that will result in an unacceptable impact upon the quality of the local environment.
39. *Policy U8a - Disposal of Foul and Surface Water* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:*

<http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=494>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

40. None

## **INTERNAL CONSULTEE RESPONSES:**

41. Design and Conservation have commented on the application and the design of the dwellings is considered to be of interest. However, overall, objection is raised to the application and development of the two houses. The development is considered overdevelopment and out of keeping with the area with a lack of breathable space between property. Concerns over the development and trees are also raised, therefore they do not look favorably on the development.

## **PUBLIC RESPONSES:**

42. A total of 46 letters and emails of representation have been received with regards to this development.
43. Objection is raised to the continuing problems of the Bishopsgate development site in relation to development proceeding and failing to accord with the approved plans. Objection is raised to the size and height of the dwellings, gable as opposed hipped roof profile, the small gardens, detailed elevational treatment including use of cladded elements and glass balustrades. Several letters point out discrepancies between the development on site and that which was shown on the previously submitted application. The degree of surveying errors between the previously submitted plans and the land is considered grossly negligent by some residents, who also believe that the developer has deliberately submitted misleading information to aid planning permission being gained in the first place. Queries are raised as to how the development is being monitored by the planning department. Queries are also raised that the developer or those working on behalf of him are working to different plans. The development should be made to comply with the originally approved plans, works should not be allowed to continue and this is resulting in a disadvantage to residents as the developer will be less likely to be made to amend the development the more the build is completed. Requests are made that strong action against the developer is made by the Council including being made to demolish the works which have taken place. Without action being taken it gives developers the signal that the planning department has lost control over the development. The planning department must take responsibility for the problems at the site.
44. The dwellings cause a loss of privacy. The development is considered to be overdevelopment and Design and Conservation recommended refusal of the original application on this basis. Queries are raised as to why so many copies of letters informing residents of the application have been issued through the post, this is a waste of resources. Requests are made to clearly explain the plans and changes to the scheme, provide measurements of the dwellings, distances to nearby property, sizes of garden spaces and also clarify whether the submitted plans coincide wholly with the Planning Authority's surveying. A request is also made that a plan and montages accurately depicting the whole site are submitted. Detail on the size of garden spaces is requested. The application is considered a "done deal" by one resident. The views of local residents are not considered to be adequately heard, reference is made to a recent article regarding the development site in the Durham Times. Conditions requiring the painting of a fence and planting of a hedge on the plot 4 dwelling still have not been complied with.
45. Clarification is sought on the consultation period and exactly when public responses should be submitted to the Council, conflicting information has been disseminated in relation to this. It is considered that the application for a variation of condition is not the correct manner in which the scheme should be being considered. The originally approved plans were utterly illegitimate and consideration of the issues being limited to a variance to the approved plans disadvantages residents. The original application was

approved subject to conditions and it is understood that the discharge of these has not been fulfilled by the developer further strengthening that the application is void.

46. Queries are raised as to how another company can oversee building regulations and should this not be done by the Council. With regards to highways issues queries are raised with regards to the location of parking spaces, that the access road will be blocked by cars, what would stop owners converting garages to further accommodation. Objections are raised to the noise of the works onsite which has included working on Saturday and Sunday.

#### **APPLICANTS STATEMENT:**

47. The application has been accompanied by a covering letter in support of the application seeking to explain some of the discrepancies that has occurred on site in comparison to the previously approved plans. The developer regrets the surveying inaccuracy which in part has come from a difficulty in accurately depicting a hedge and boundaries on the former Nook site.
48. The developer has sought to reduce the plot 5N dwelling to compensate. Reference is made to the previous grant of planning permission for a single dwelling on the plot of the former Nook property which was considered to be located virtually on the boundary with the Fieldhouse Lane properties.
49. Whilst it acknowledged that work on the properties is continuing they have worked openly with the planning department, who have visited the site on numerous occasions and have agreed changes to address their and resident's concerns.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:*

<HTTP://217.23.233.227/WAM/SHOWCASEFILE.DO?ACTION=SHOW&APPTYPE=PLANNING&APPNUMBER=12/00154/VOC>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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50. Planning permission is sought to vary condition 2 of planning application 11/00748/FPA through the submission of a section 73 application.
51. Amongst the public objections to the development, questions are raised as to whether it is correct for a variation of condition application to be submitted as the original planning permission is considered to be inaccurate.
52. Section 73 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. The Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application. Section 73A of the Act provides, among other things, for retrospective planning applications to be made in respect of development which has been carried out without permission and for applications for planning permission to authorise development which has been carried out without complying with some planning condition to which it was subject.
53. Greater flexibility for planning permissions guidance was issued in 2009 encouraging a greater use of section 73 applications to provide a more responsive and proportionate response from Local Planning Authorities to material variations to planning applications. There is no statutory definition of a minor material amendment. However, a definition is

provided within the greater flexibility guidance which is "A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved."

54. Officers acknowledge the discrepancies between the approved plans and the works which have commenced on site including the inaccuracies of the previously approved plans in terms of the dimensions of the land and in turn proximity to other property. However, the nature and scale of the development is not considered to be so significantly different that a variance of the plans via a section 73 application cannot be an acceptable form of application.
55. In the determination of this type of application however, the Local Authority must have due regard to the Development Plan and other material considerations and should approval be granted a new planning permission would result.
56. The focus of the determination of the this S73 application is on the changes between the original planning application and this variation of condition submission having regard to any changes to the Development Plan or material considerations that may have occurred in the intervening period. The key issues pertaining to the development of the two dwellings are, consistent with the original application, considered to relate to the principle of the development, impact upon the character and appearance of area, impacts upon residential amenity, highway safety, impacts on trees and protected species.

#### Principle of the Development

57. Within the previously approved application, the original application took in a residential property and ancillary buildings and in part the former curtilage of a nursing home. The application site is also located within the settlement boundary of Durham City and within close proximity to the City Centre.
58. The application site comprises of the curtilage of The Nook and part of the former nursing home. The Nook site has a history of planning approvals for replacement residential development with approvals in 2007 and 2011. The remaining land within the application site formed part of the former nursing home site which gained planning permission in 2009 for 7 no. dwellings.
59. Sections of the land were therefore considered to be previously developed land as they contained a dwelling and ancillary buildings to be demolished and formerly contained part of a nursing home site.
60. Policy H2 of the Local Plan accepts the principle of windfall development of previously developed parcels of land within Durham City. The proposal sought to redevelop a part brownfield, part Greenfield parcel of land within the settlement boundary of Durham City. The proposal was considered to constitute an efficient use of land with good access to services and public transport in accordance with the National Planning Policy Framework. This establishes a presumption in favour of sustainable development. The proposal is re-using land within a sustainable location and as result the development is considered to accord with this overarching aim.
61. Significant weight was also attributed to the history of extant planning permissions for residential development on the land.
62. As a result, the principle of the development was accepted. This variation of condition application once again proposes 2 no. dwellings on the application site only with the



varied detail of the plans. The use of the land essentially remains the same as the previous planning application.

63. Since the previous grant of planning permission the NPPF has come formally into effect and Planning Policy Statements and Planning Policy Guidance Notes have been replaced. Residential development on the land is still considered to accord with the provisions of the Development Plan and the NPPF as aforementioned.

#### Impact upon Visual Amenity and the Character and Appearance of the Area

64. A key consideration in the determination of this application is the suitability of the design, scale and massing of the proposal and in turn its impact upon the character and appearance of this part of the Durham.
65. Much public objection relates to the scale and appearance of the dwellings within this application with objection raised to the height and general scale of the dwellings, use of gable end rather than hipped roof profile. Some objectors consider the development is overdevelopment of the application site and objection is raised to the garden sizes, objection is raised to the glass balustrades and use of cladding.
66. Design and Conservation, have objected to the proposed development considering that the proposal constitutes overdevelopment and is out of keeping with the area with a lack of breathable space between property. Design and Conservation did not issue comments on the original planning permission in 2011 until after the determination of the application.
67. The architecture and design principles of the dwellings have not changed from the planning permission of 2011. The dwellings are large properties with accommodation in the roof space and incorporate feature chimneys, gable ends and bay features which remain on the southern dwelling though not now on the northern dwelling.
68. Through the approval of the 2011 application the general scale and design of the dwellings was accepted. Reference in the officers Committee report was made to the large NHS building "North End House" which contains similar design features.
69. With this variation of condition application the removal of the bay window to the rear (west) elevation of the northern dwelling is considered to cause no detriment to the original design. A slight projection of around half a bricks worth is left to provide some depth to this elevation and allow for essentially the same appearance to the elevation only this time with the reduction in projection. No objections are raised to this alteration. Adjacent to this the originally approved application proposed a small balcony area accessed via a set of first floor french doors to a bedroom. These french doors have been removed and replaced with an obscure window to en-suite and the enclosed balcony no longer proposed. No harm to the appearance of the dwelling will result from these changes.
70. The South elevation of the southern dwelling features two gable offshoots. On the original application the rear (westernmost) of these was to be the higher and the forwardmost (easternmost) was to be the lower. As works on this property have evolved, the reverse has occurred on site with the rearmost (westernmost) gable element 0.49m lower than was proposed originally and the forward most (easternmost) 0.7m higher than proposed. However, this switch and the lowering of one part and heightening of another is not considered to cause harm to the appearance of the dwelling.

71. From measurements taken on site the dwellings themselves are of the same general size and scale as those previously approved under the application of 2011. The only increase in footprint is with reference to the northernmost dwelling now proposing a single storey infill extension providing a store area and additional kitchen space.
72. Due to the incorrect surveying of land in the first instance, the two dwellings are in the correct position but the distance to surrounding dwellings is reduced effectively through a reduction in the garden areas compared to the approved plans.
73. The inaccurate surveying of the land has resulted in the build to plot ratio increasing, garden spaces have been reduced in size and the dwellings are closer to adjacent property. Effectively the total amount of open space that sits behind the two dwellings has reduced from the previously proposed 420m<sup>2</sup> to 310m<sup>2</sup> which equates to a reduction of 26%. It is a matter of judgement as to whether the development is now considered to represent overdevelopment and whether the breathable space about the dwellings in the area is now unacceptable. Officers do not consider that the difference between the previously approved scheme and that which has now been developed on the land is so significant as to now consider that it constitutes overdevelopment warranting refusal. Officers consider that the proximity of the dwellings to Fieldhouse Lane is not such that it harms the character or appearance of this part of North End.
74. Further public objection relates to detailed elements of the design namely the use of gable roof profiles, glass balustrades and aluminium cladding. The glass balustrades formed part of the originally approved application and were not considered unacceptable and weight must be attributed to this. With regards to the cladding, a condition was placed on the original application with regards to final material use and the specific design of the clad areas. It was agreed under the discharge of condition submission that the use of grey render was a more appropriate design solution and this is now shown on the plans. Examples of gable pitched roof profiles exist in the area such as the NHS building North End House and indeed steeply pitched roofs are a commonplace feature in Durham City.
75. On balance officers do not raise objection the scale and design of the proposed dwellings or their impact upon the character of the area. The development is considered to accord with relevant policies H2, H13 and Q8 of the Local Plan in this regard and the provisions of the NPPF, most notably section 7 "Requiring Good Design".

#### Impact upon Residential Amenity

76. Policies H2, Q8 and H13 of the Local Plan seek to ensure that the amenities of neighbouring residents and land users are preserved through new developments.
77. Public objection received in relation to the application includes objection to the impact of the development upon residential amenity. Points are raised with regards to the greater proximity of the dwellings to neighbouring property, the scale of the dwellings and the potential for overlooking.
78. Within the Committee report of the originally approved application the proposed dwellings were detailed as being large properties both containing accommodation in the roofspace and the proximity to one another would also create a lengthy, continuous build when viewed from the east and west.

79. Policy Q8 of the Local Plan provides advice on the layout of residential development and provides separation distances guidance seeking to ensure that the residential amenity of all occupiers is retained within a development. This guidance states that from a window to a single storey gable 6m separation should be maintained and to a two storey gable 13m should be maintained. This is to ensure that adequate outlook is retained for occupiers and that one development is not too overbearing upon another. In terms of privacy Policy Q8 advises that 21m should remain between the main facing windows.
80. The nearest existing properties to the proposed development are those at the northern end of Fieldhouse Lane and the adjacent, recently developed plot 4 site at Bishopsgate. Within the previously approved plans the rear of the northernmost of the dwellings was to be located 19m from the rear extension of No. 26 Fieldhouse Lane at the nearest point. This nearest offshoot of the proposed dwelling was to contain just a single window to en-suite and dress space within bedroom and conditions required that these were to be obscure glazed. The revised application having removed the projection of the rear bay in the northern dwelling is now located 18m from the rear of No. 26 a difference of 1m. The only west facing window to habitable accommodation at first floor within the originally approved plans in the proposed northern plot was to a bedroom with a small balcony outside. The balcony was to be 21m from the nearest window within No. 26 Fieldhouse Lane. Within this revised application the balcony area is not proposed and the access doors replaced with a window. This window is proposed to an en-suite rather than a bedroom as a bedroom has now been removed from the first floor plan and this en-suite window can be conditioned so as to be obscure glazed on any approval. The nearest elements of the northernmost dwelling are therefore 18m rather than 19m from the rear of No. 26 Fieldhouse Lane. Local Plan Policy Q8 states that 13m should remain to a blank two storey gable. The west facing elevation of the northernmost dwelling is not wholly blank though no clear glazed windows at first floor to habitable accommodation are proposed. The established boundary between No. 26 Fieldhouse Lane and plot 5N dwelling will prevent views from the ground floor of the dwelling into No. 26 Fieldhouse Lane.
81. Within the previously approved plans the plot 5S property was to be 25m from the rear of No. 25 Fieldhouse Lane. This would include windows to main habitable rooms, ground floor kitchen/dining space and lounge and first floor bedroom accommodation. A dormer within west facing roofslope would be to a studio space. The ground floor bedrooms would be obscured by the boundary treatment between the properties. The separation distances of 25m to the bedrooms and No. 25 Fieldhouse Lane and 27.5m to the dormer considered to be of sufficient length to prevent a loss of privacy, again taking into consideration the height of the proposed dwelling and change in levels.
82. The inaccuracy in those plans has resulted in the closer proximity of the southernmost dwelling and the nearest property No. 25. The very closest element of the proposed southern dwelling now considered to be 21.5m away from No. 25 and this element would include ground floor family room and kitchen space and first floor bedroom accommodation. The guideline within Policy Q8 of the Local Plan is that a distance of 21m should remain between windows to allow for adequate privacy. The distance of 21.5m accords with this. Furthermore existing boundary landscaping obscures some of these views further particularly at the ground floor level.
83. Separation distances from the proposed dwellings to other neighbouring properties namely Nos. 24 and 23a Fieldhouse Lane and properties on The Grove are greater still and impacts upon residential amenity considered acceptable.
84. Adequate amenity is also considered to be provided for prospective occupiers of the dwellings. Consideration must be given to the reduced area of garden which both

properties now have as a result of the inaccurate surveying and altered proposal. The garden spaces proposed are not large. However, it must also be noted that in addition to any rear lawned areas each dwelling would be provided with a pergola outdoor space. On balance the amount of garden area is considered acceptable for the size of dwelling .

85. With the requirements of Policy Q8 of the Local Plan being met officers do not object to the proposal on the grounds of a loss of privacy or amenity.

#### Highways Issues

86. Within the previously approved application from last year the Highway Authority initially raised concern that a further parking space in addition to the double garage for each property would be needed given the size and occupancy levels.
87. Revised plans submitted during the course of the application identified that a further parking space within the curtilages would be located to the front of the entrance into each property. Provided that this space is utilised as a driveway and that the double garages are not converted the Highway Authority raise no objections to the development.
88. Despite the variances in the plans and development on site to which this application relates, each dwelling retains a double garage and parking space and no additional highways implications are considered to emerge through the application. It must be noted that the revisions to the plot 5N dwelling has resulted in one less bedroom now being proposed therefore, if anything, a slight reduction on the pressure for parking would result from this revised application.
89. Some public objection to the development raises concerns over parking matters, whether the access road would be blocked with cars and what provisions would be made to ensure that garage and curtilage space is available for parking. Conditions can as in the previous approval be attached to any approval to prevent the garages from conversion to habitable rooms and ensure that the adjacent spaces are not an enclosed courtyard space but utilised as a driveway.
90. It must be noted that Policy T10 of the Local Plan seeks to limit parking provision in new development so as to promote sustainable transport choices and therefore the proposed 3 parking spaces is considered adequate for each of the properties.
91. As a result officers do not raise objection to the proposal on the grounds of harm to highway safety in accordance with Policies T1 and T10 of the Local Plan.

#### Impact upon Protected Species

92. Policy E16 of the Local Plan and Policy 33 of the RSS seek to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through the NPPF most notably at paras. 118 and 119.
93. Bats are a protected species and the presence of protected species such as bats is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation (Natural Habitats etc) Regulations 1994 (since amended). These regulations established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations, it is a criminal offence to kill injure or disturb the

nesting or breeding places of protected species unless it is carried out with the benefit of a license from Natural England.

94. The species protection provisions of the Habitats Directive, as implemented by the Conservation (Natural Habitats etc) Regulations 1994 (as amended) contain 3 no. "derogation tests" which must be applied by Natural England when deciding whether to grant a license to a person carrying out an activity which would harm an European Protected Species (EPS). For development activities this license is normally obtained after planning permission has been granted. The three derogation tests are as follows; the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety; there must be no satisfactory alternative and; favourable conservation status of the species must be maintained.
95. Notwithstanding the licensing regime the Local Planning Authority must discharge its duty under Regulation 3(4) and also address its mind these three tests when deciding to grant planning permission for development that could harm an EPS. Within the previously approved application a bat survey did accompany the application as demolition of "The Nook" was proposed. The survey found no evidence of bats but mitigation measures were proposed in the form of bat bricks being inserted into the development. These bat bricks can be incorporated into this revised proposal and are shown on the submitted revised plans. The location of these bat bricks has previously been agreed by the Council's senior ecologist. On balance no objections are raised with regards to the development and impact upon protected species.

#### Impact upon Trees

96. Policy E14 of the Local Plan specifically seeks to retain trees of value or where they are to be lost to development seeks to ensure that an adequate compensatory landscaping plan is received. Design and Conservation in their response to this application have raised some concerns over the impact of the development upon trees. The previously approved application was accompanied by a tree report and a scaled plan indicating the canopy and root protection areas of the trees.
97. In the determination of that application, informed by the views of the Councils tree officer and landscape architect, all trees and landscape features within the site were considered of little value or quality and objections were not raised to their loss.
98. The most valued trees within the area are actually beyond the application site namely a cherry, silver birch and protected sycamore all of which are located on the highway to the north of the application site. The other dominant tree adjacent to the site is a large Leyland cypress within the garden of No. 25 Fieldhouse Lane. It was considered under the previously approved application that due to the location of the development from the root protection areas of these trees the development should not cause a harmful impact. It would be necessary, however, to protect those trees.
99. Protective fencing has been erected for the duration of the works that have been undertaken in relation to the two dwellings and provided that said fencing remains in place until the developed is complete, which can be conditioned, the trees of value would be protected from the development, raising no objections from officers. It was agreed prior to the commencement of works that the southernmost apple tree which would be unaffected by the build should be retained and a condition can be attached to ensure this.

## Other Issues

100. The previously approved application included a condition requiring the agreement of a scheme for the disposal of foul and surface water. Under the submission to agree this condition such details were provided and agreed by the Local Planning Authority in consultation with Northumbrian Water. The details of the drainage arrangements are now shown on the submitted plans and in the event of an approval it is not considered that a specific condition is required to be attached again. The application is considered to accord with the provisions of Policy U8A of the Local Plan.
101. Much public objection relates to the continuation of the development on site despite the known inaccuracies of the submitted plans on the previous application. Objection is raised towards the actions of the developer repeatedly failing to develop in accordance with the approved plans with requests for strong action from the Council to cease development and subsequently some dismay from residents that this has not come into fruition. Some residents also consider that as the development has now continued for such a period and to such an extent the likelihood of the Council considering the development unacceptable and taking action will have reduced. Some public respondents consider that the inaccuracies in the plans originally submitted were deliberate to help the developer gain planning permission in the first place. Questions are raised as to how the Local Planning Authority has been monitoring the development.
102. Much consideration has been given to whether it would have been right, prior to this Committee meeting to take formal enforcement action. In considering any enforcement action, the decisive issue for the LPA should be whether the breach of control would unacceptably affect public amenity or the existing use of land and building meriting protection in the public interest.
103. Officers considered that despite the discrepancies in the development site and the previously approved plans that the development remained one which accorded with the provisions of the Development Plan. It was considered therefore that any enforcement action, through for example the serving of an enforcement notice and/or stop notice should not occur. Instead the application as now submitted should be considered on its own merits.
104. Officers have no means of determining whether the inaccurate plans were issued deliberately or not, neither is this relevant to the decision. The covering letter accompanying the planning application makes reference to these inaccuracies demonstrating that it was not a deliberate act.
105. In terms of the questions over the monitoring of the development on site, officers have conducted several site visits throughout the duration of the works and some key findings are attached to this report as background information.
106. Some local residents have queried how the building regulations for the development can be undertaken by a private company rather than the Local Authority. Unlike the granting of planning permission, building control does differ in that private approved inspectors can handle matters concerning building regulations.
107. Many requests for information have been received from local residents during the course of the application requesting information on the differences between the plans as approved and now submitted, results of measurements and surveys on the site and confirmation that the plans now submitted correspond with the findings of the LPA. Officers have engaged in correspondence with several local residents on detailed points relating the content of the application and the measurements and surveys of the land. In summary the submitted plans within this application are now considered to accurately

depict the development on the site. Again the appendices to this report include details of the measurements taken via a digital survey on site and also detail some key measurements and differences between the previously approved plans and that which has occurred on site. A request has also been made that further plans showing the whole development site and photo montages are submitted. However, officers consider that the application contains the necessary information for the application to be deemed valid and suitable for determination without the submission of further plans or information.

108. Some local residents have stated that they have received several copies of the same letter in relation to the development and criticised the efficiency and use of resources within the planning department. Additional copies of letters were issued in error and this will be corrected from hereon out.
109. Some public objection considers that the views of residents are not being appropriately listened to or considered. Officers consider that all points raised are being duly taken into consideration and it is hoped that this report to members adequately presents the clear concerns of the local residents.
110. Some clarification has been sought on the period of consultation for this application, it is considered that this should have been clarified by the issuing of several letters informing residents of the submission of the amended plans detailing dates at which letters should be received. All residents who submitted comments on the application have been further informed of this committee meeting.
111. One local resident has raised the point that the original planning application was approved subject to conditions and that these conditions were not resolved prior to works commencing on site. The applicant did submit a discharge of condition application and matters pertaining to those conditions were being resolved. However, upon the discovery of the discrepancies of the development and those approved plans this revised application was submitted and matters pertaining to those conditions are effectively being considered under this application.
112. One local resident has stated that the conditions requiring the painting of a fence and planting of a hedge on the plot 4 dwelling have still not been complied with. These issues are being separately pursued with the developer.
113. Objections have been raised from residents about works onsite which has included working on Saturday and Sunday causing disturbance. This matter was raised with the developer during the course of the application and it is understood that works are now only occurring on weekdays.

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## **CONCLUSION**

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114. This application has been submitted following the discovery that the development occurring on site is not in accordance with the previously approved plans. The dwellings are of the same general size, scale and design as previously approved though some alterations to the roof profile, rear bay, infill extension and fenestration has occurred. The key alteration from the previously approved scheme emerging from inaccurate surveying is that the dwellings are in effect closer to adjacent properties on Fieldhouse Lane than was first approved as shown on plan, albeit the houses are in their correct location but with reduced distances to boundaries.

115. Officers have considered the implications of these alterations from the previously approved scheme with regards to all relevant matters most crucially impact on the residential amenity of the nearest occupiers and impacts upon the character and appearance of the area. Officers consider that the revised scheme remains acceptable having regards to the provisions of the Development Plan and also the provisions of the NPPF which have come into force since the previously approved scheme.
116. On balance and after careful consideration of public opposition to the development officers recommend approval.

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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 following approved plans:

Plans numbered 0006213 03a received 1<sup>st</sup> February 2012, 2e, 3e, 5d, 6c received 2<sup>nd</sup> April 2012 and 4b, 7e, 8f and 9f received 25<sup>th</sup> April 2012

Reason: To define the consent and ensure a satisfactory form of development having regards to Policies E14, E16, H2, H13, T1, T10, Q8, U5, U8A and U11 of the City of Durham Local Plan 2004.

3. The dwellings hereby approved shall be constructed using the following materials: Ibstock Barrowdale Blend, Kimbleton Red multi bricks and Weber 2502 graphite render panelling to external walls and Redland Farmhouse red clay pantiles to roof. Vehicular hardstands shall be constructed with Marshalls Excel red multi paviers. Windows shall be grey upvc.

Reason: In the interests of visual amenity having regards to Policies H13 and Q8 of the City of Durham Local Plan 2004.

4. The hereby approved development shall be carried out in accordance with the details of landscaping as shown on plan 3e. These landscape works shall be carried out within the first planting season following completion of development of the site and shall thereafter be maintained for a period of 5 yrs following planting. Any plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of residential amenity in accordance with Policy Q8 of the City of Durham Local Plan 2004.

5. Notwithstanding the details submitted on approved plans, full details of all means of enclosure to be retained or erected on site shall be submitted to the Local Planning Authority within 2 months of the date of this permission. Means of enclosures at the site shall thereafter be retained or erected in accordance with the scheme agreed.



Reason: In the interests of visual amenity having regards to Policy Q8 of the City of Durham Local Plan 2004.

6. Tree Nos. T02, T03, T01 and T1 as shown on submitted plan 0006213 03a shall remain adequately fenced off and protected from the development in accordance with BS.5837:2005. Said protection shall remain in situ until the development has been completed. No works to these trees without the prior approval of the Local Planning Authority shall occur.

Reason: In the interests of the preservation of trees and visual amenity having regards to Policies E14 and Q8 of the City of Durham Local Plan 2004.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A, B and E of Part 1 of Schedule 2 of the said Order shall be carried out.

Reason: To maintain the character of the scheme and to protect the privacy and amenity of existing and proposed residents, in accordance with Policy Q8 of the City of Durham Local Plan 2004.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development ) Order 1995 (or any Order revoking and re-enacting that Order) the garaging, hardstandings and car parking shown on the approved plans shall be used and maintained in such a manner as to ensure their availability at all times for the standing and garaging of private motor vehicles.

Reason: In the interests of highway safety having regards to Policy T1 of the City of Durham Local Plan 2004.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the glass to be used in the west facing first floor windows of the Plot 5N dwelling shall be obscure glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room and once installed are retained as such.

Reason: In the interests of residential amenity having regards to Policy Q8 of the City of Durham Local Plan 2004.

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## **REASONS FOR THE RECOMMENDATION**

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1. The development represents an acceptable use of the land in principle with no harm caused to the character or appearance of the area, the amenity of adjacent occupiers, highway safety or protected species. The development is considered to accord with relevant Policies E14, E16, H2, H13, T1, T10, Q8, U5, U8A and U11 of the City of Durham Local Plan 2004. With regards to protected species the development is considered to accord with the requirements of the Habitats Directive brought into effect through The Conservation (Natural Habitats etc) Regulations 1994

This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July

2008 and the City of Durham Local Plan 2004 where it is consistent with the National Planning Policy Framework.

2. In particular the development is considered to cause no detrimental harm to the character or appearance of the area or upon the amenity of neighbouring occupiers despite reduced distances.
3. In total 46 letters of objection, comment and representation were received during the course of the application. The objections and concerns related to a variety of issues notably impact upon visual amenity, residential amenity, actions of the developer, actions of the planning department, requests for further information and legitimacy of the application . These matters have been discussed and assessed within the report and officers consider the impacts of the revised development remain acceptable, in accordance with the provisions of the Development Plan and NPPF.

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## **BACKGROUND PAPERS**

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Submitted Application Forms and Plans and supporting documentation  
City of Durham Local Plan 2004  
Regional Spatial Strategy  
National Planning Policy Framework  
Internal consultee responses  
Public responses  
Planning Circular 11/95  
Greater flexibility for planning permissions: Guidance



**Planning Services**

Variation of condition 2 of application 11/00748/FPA (Demolition of existing bungalow and erection of 2 no. dwellinghouses) revising layout of site together with alterations to rear elevation of northern plot dwelling and roof profile on southern elevation of southern plot dwelling

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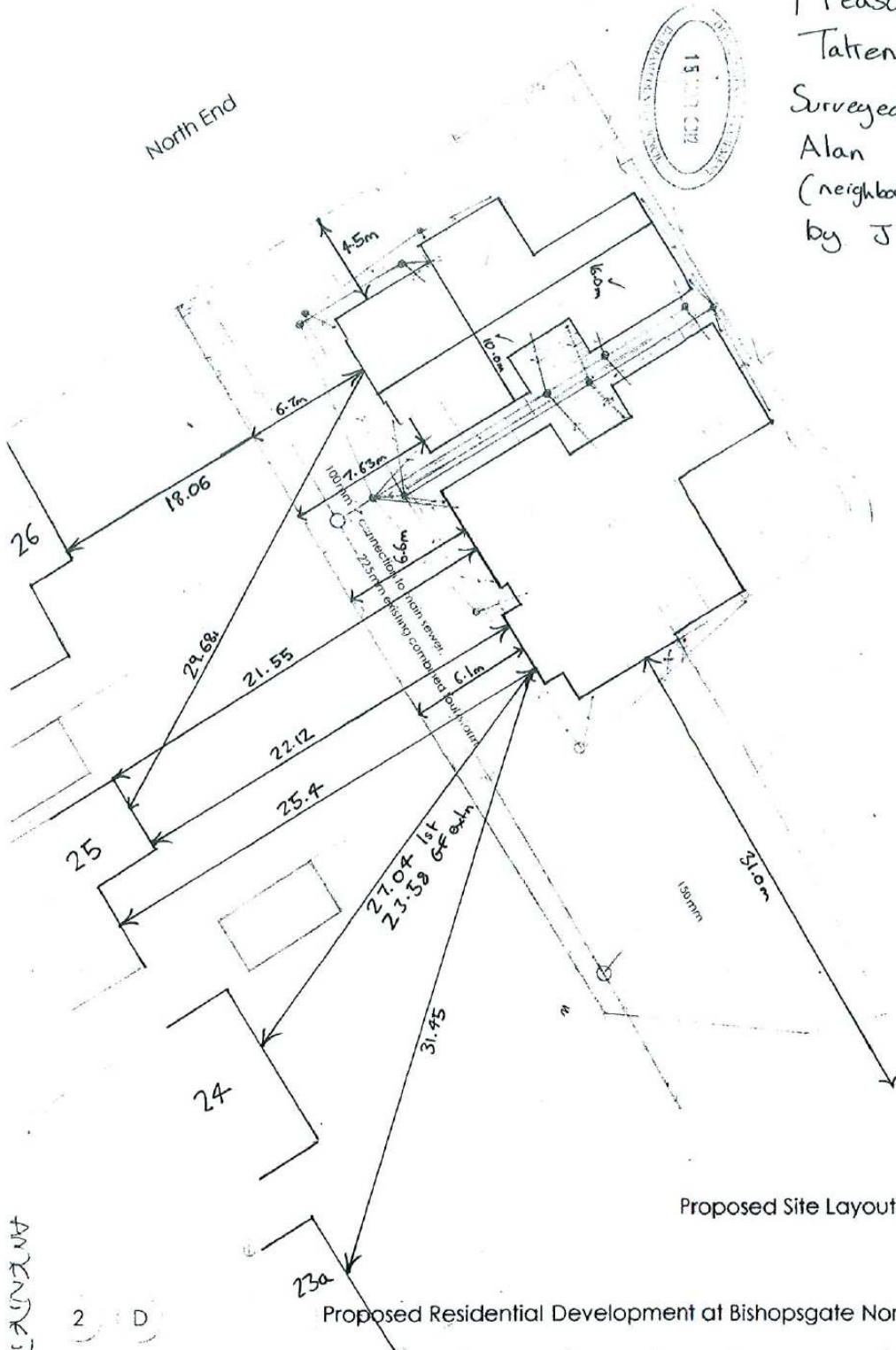
Durham County Council Licence No. 100022202 2005

**Date** 8<sup>th</sup> May 2012

**Scale** 1:1250

Appendix 1 – Results of electronic survey of land and development 19.3.12

Measurements  
 Taken 19.3.12  
 Surveyed by  
 Alan Glendenning  
 (neighbourhoods) checked  
 by JT & BG as correct.



APPENDIX 1

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## Planning Services

# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION NO:	PL/5/2011/0060
FULL APPLICATION DESCRIPTION	CHANGE OF USE FROM PUBLIC HOUSE TO EDUCATIONAL CENTRE (CLASS D1:NON-RESIDENTIAL INSTITUTIONS)
NAME OF APPLICANT	MR K CHOUDRY
SITE ADDRESS	MELROSE ARMS OFFICE ROW FRONT STREET, SHOTTON COLLIERY DH6 2NA
ELECTORAL DIVISION	
CASE OFFICER	Allan Fenwick 03000261957 dmcentraleast@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSAL

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- 1.1 **Site:** The site occupies a relatively central position within Front Street, one of the main access routes through Shotton. There are a mixture of uses within the immediate vicinity of the premises including residential properties, a taxi rank, an industrial estate, a guesthouse and general amenity space.
- 1.2 The building was formerly used as a Public House however has been boarded up for a number of months and the internal fitments stripped. The property as a result looks run down and somewhat of an eyesore.
- 1.3 The property is accessed off the classified C15 Front Street and does not benefit from any dedicated off street parking.
- 2.1 **Proposal:** The proposal seeks permission to change the use of the premises from a public house (A4) to an educational centre (D1). The centre is proposed to be open seven days a week during the day and late into the evening although no specific opening hours have been provided.
- 2.2 The educational centre is described as primarily for the use of the local Muslim Community within Shotton consisting currently of around ten families. The centre would run numerous classes however would not include a Mosque element. The proposed use would have off street parking available at The Albert Guesthouse although this would be an informal arrangement.
- 2.3 The application is being reported to Committee at the request of both Cllr Todd and Cllr Huntington following receipt of representations from a number of local residents

who object to the proposed development. There has also been an objection from Shotton Parish Council.

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## **PLANNING HISTORY**

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- 3.1 PL/5/2009/0486 – Change of use from public house to prayer hall withdrawn 05/01/2011.
- 3.2 There has been some delay in progressing the current application to Committee due to the application originally being incorrectly advertised as a D2 use (assembly and leisure) rather than a D1 use (non-residential institutions). The D1 use classification includes education and training centres such as the one proposed as part of this application in addition to places of worship, day centres and libraries amongst others.

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## **PLANNING POLICY**

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### **4. NATIONAL POLICY:**

- 4.1 National Policy Framework
- 4.2 On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). The framework is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. Three main dimensions to sustainable development are described; economic, social and environmental factors. The presumption is detailed as being a golden thread running through both the plan-making and decision-taking process. This means that where local plans are not up-to-date, or not a clear basis for decisions, development should be allowed. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Planning Policy Statements and Planning Policy Guidance Notes are cancelled as a result of the NPPF coming into force. The Regional Spatial Strategy remains part of the Development Plan until it is abolished by Order using powers within the Localism Act.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicyframework/>*

### **5. REGIONAL PLAN POLICY:**

- 5.1 The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
- 5.2 In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully

challenged in the High Court in November 2010, thus for the moment reinstating the RSS.

## **6. LOCAL PLAN POLICY:**

District of Easington Local Plan

Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.

Policy 96 - Outside of Seaham and Peterlee, conversion or redevelopment resulting in the loss of a community facility will only be allowed where the facility is no longer viable, there is no significant demand, or equivalent facilities are accessible and available or would be made available.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **7. STATUTORY RESPONSES:**

- 7.1 Shotton Parish Council – Object to the planning application as concerned that if Educational Centre approved it would have a D1 use class therefore allowing it to change to a prayer hall without the need for a further planning application.
- 7.2 Cllr Todd – Objects to the application as concerned about the implications of a D1 use class for the premises and the potential car parking issues that could arise as a result.
- 7.3 Shotton Partnership – Welcome the external upgrade of the building however raise concerns that the development will segregate the community, duplicate existing services and the planning application lacks clarity.

### **8. INTERNAL CONSULTEE RESPONSES:**

- 8.1 Environmental Health – No adverse comments
- 8.2 Highways Officer - has concerns about the lack of off-street parking. Would not support use of parking facilities at the Albert Guest House, as offered by the applicant, as this would impact on their own parking needs. Would request conditions to control scale of use:

Limit on number of visitors;

Restriction on use so as not to permit wedding functions, ceremonies, celebrations or other similar events;

Temporary permission for 12 months to assess implications for car parking.

## **9. PUBLIC RESPONSES:**

9.1 The application has been advertised by a site notice and individual letters to residents. Thirteen letters of objection have been received on the grounds of;

- Highways concerns which focus on lack of dedicated parking for the premise therefore visitors to the centre will park on the main road which they feel will lead to increased congestion especially given the existing uses within the street. Residents are worried that this will lead to accidents due to poor visibility.
- That the building will not be for the use of the entire community and only certain members of it.
- The loss of a pub given the lack of facilities elsewhere in the area.
- That this is another way of applying for a prayer hall under the D1 use class.
- That the venture cannot be economically viable.

9.2 In addition a petition signed by 102 local residents has also been received objecting to the proposed development.

9.3 Four letters of support have also been received welcoming the proposal as it will see a prominent, derelict building back in use. One letter has also been received stating that further information is required.

## **10. APPLICANTS STATEMENT;**

10.1 The applicant has opted not to provide a statement for inclusion in the report, preferring to make further representations at the Planning Committee.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=112678>*

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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The main considerations relevant to this application include the principle of development, highway issues, impact on residential amenity and public responses.

### **11. Principle of development:**

11.1 The National Planning Policy Framework (NPPF) is based on the policy of sustainable development and establishes a presumption in favour of this. The proposal is considered to accord with these aims given the site is located within the settlement limits of Shotton therefore is surrounded by a range of different land uses and has good access to public transport.



- 11.2 Policy 96 of the Local Plan aims to protect community facilities, and the loss of such uses through conversion or redevelopment will be resisted unless it can be demonstrated that the facility is no longer financially viable, there is no significant demand or there are equivalent ones located nearby. Concerns have been expressed about the loss of the public house given that there are no similar facilities within Shotton. The agent for the application, however, has provided additional information demonstrating that the pub business was struggling to operate under two previous landlords and then subsequently the brewery struggled to sell the premises on. Furthermore, as the proposed change is to an educational centre for the benefit of the local community the development is not considered to seriously conflict with the local plan. In any event greater weight must be afforded to the NPPF than policy 96 which advocates support for local strategies to improve social and cultural well being by delivering sufficient community and cultural facilities and services to meet local demand. The proposal would result in the replacement of one type of community facility with another, and would therefore be in the spirit of Policy 96.
- 11.3 The former Melrose Arms has stood vacant for several months now and is boarded up causing a visual blight on the area. Not only would the current proposal reuse an existing vacant resource which conforms to wider sustainability objectives of the NPPF (paragraph 17) but it would also help to improve the general appearance of the street scene.
- 11.4 Part 8 of the NPPF, Promoting Healthy Communities, states that in order to deliver the social, recreational and cultural facilities the community needs, planning policies and decisions should, amongst other things, ensure that shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community. It is considered that the proposal would meet this aim by retaining a building in community use and finding a new use for a redundant public house.

## **12. Highway issues:**

- 12.1 Objections have been received about lack of parking and increased congestion. The premises do not benefit from dedicated off-street parking and the proposed use may attract car-borne visitors. However, the lawful use is as a public house, and this could resume without the need for planning permission, potentially creating greater demand for car parking. Any alternative use of the premises would have some parking requirements, and the proposal needs to be considered in this context.
- 12.2 With reference to the Highways Officer's suggested conditions, if the visitors are local as claimed by the applicant, there is not necessarily a direct connection with the number of vehicles at the premises. Given that the lawful use of the property would give rise to impacts on the highway, it would be difficult to demonstrate that the proposed use would involve a level of activity that would generate more parking. On this basis, such a condition would be unreasonable.
- 12.3 A restriction on types of activity may be more appropriate. Whilst the suggested activities would generally be ancillary to the current lawful use, the proposals would introduce a new use to the premises. A use within Class D1 as proposed would normally allow, without the need for a planning application to the Council, other uses including places of worship, health centres and libraries. Such uses could generate a greater requirement for parking facilities. The current proposal is a specific use that, as put forward by the applicant, could operate without significant highways

impacts, serving essentially a local population. In these circumstances, it is considered appropriate and reasonable to limit the use to that specified by means of a planning condition. This would ensure that any other uses would require planning permission from the Local Planning Authority, and due consideration could be given to parking and other issues at the time.

- 12.3 Temporary consent would also be a valid condition, given that the proposed level of activity is difficult to determine at this stage. A temporary approval for 12 months would enable the situation to be monitored and reassessed when an application is made to renew consent, with particular reference to any parking problems that may arise.

### **13. Impact on residential amenity:**

- 13.1 Policy 35 of the local plan requires proposals to have no serious adverse effect on the amenity of people living and working in the vicinity of the development and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation. It is considered that the conversion of the building to an educational centre will create less disturbance to the local residents in all these regards compared to the former and still lawful use as a public house.

### **14. Public responses:**

- 14.1 Many of the concerns raised by local residents, the Parish Council and local Members have been addressed elsewhere in this report. Issues surrounding whether the venture can be financially viable are matters that ultimately the market will decide and it is not the role of the planning department to refuse an application on these grounds.

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## **CONCLUSION**

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15. In conclusion, it is considered that the proposal is in accordance with the National Planning Policy Framework and the relevant regional and local planning policies which do not conflict with the framework.
- 15.1 Although there is some concern about the lack of dedicated off street car parking, given that the premises could reopen as a public house without the need for planning consent, the proposed use is considered to be less intensive than the former. The property is located within a sustainable location close to existing properties and public transport, and it is considered the wider benefits of the proposal outweigh these concerns.
- 15.2 While it is regrettable that the public house will be lost especially given it is the last such remaining facility in the area, it has been shown that the use was no longer viable and the building is sitting derelict. A proposal that sees the property brought back into use as a community facility should be welcomed as it helps to improve a visually prominent eyesore on one of the main routes through Shotton.
- 15.3 In response to concerns that the approval of a D1 use class could result in a change of use to a prayer hall, it is suggested that a planning condition be attached to any grant of planning permission to prevent such a use without a further consent.

15.4 Although the concerns of local residents have been taken into consideration, on balance it is not considered that there would be any adverse impact on surrounding occupiers or highway safety to an extent that would warrant refusal of the planning application, subject to the safeguards suggested by the use of conditions.

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## **RECOMMENDATION**

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That the application be subject to the following conditions:

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; Location plan, Proposed ground floor plan both received 16.11.09

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies 1 & 35 of the District of Easington Local Plan.

3. This consent is granted for a temporary period of 12 months from the date of commencement of the use hereby approved when, unless the renewal of consent has been sought and granted previously, the use hereby approved shall be discontinued.

Reason: In the interests of the amenity of the area in accordance with saved policies 1 and 35 of the District of Easington Local Plan.

4. Notwithstanding the provisions of the Town and Country Planning (Uses Classes) Order 1987, (or any Order revoking or re-enacting that Order with or without modifications), the premises shall be used for an educational centre only and for no other purpose, including any other activity within the same class of the schedule to that Order.

Reason: To determine the scope of this permission and to prevent the main use of the site being another use in class D1 contrary to policy 36 of the District of Easington Local Plan.

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## **REASONS FOR THE RECOMMENDATION**

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1. The development was considered acceptable having regard to the following development plan policies:

DISTRICT OF EASINGTON LOCAL PLAN  
DISTRICT OF EASINGTON LOCAL PLAN  
DISTRICT OF EASINGTON LOCAL PLAN  
DISTRICT OF EASINGTON LOCAL PLAN  
NATIONAL PLANNING POLICY FRAMEWORK

GEN01 - General Principles of Development  
ENV35 – Design and layout of development  
ENV36 – Access and parking  
REC96 – Protection of community facilities

2. In particular the development was considered acceptable having regard to consideration of issues of the principle of development, highways, amenity of neighbours and representation responses.

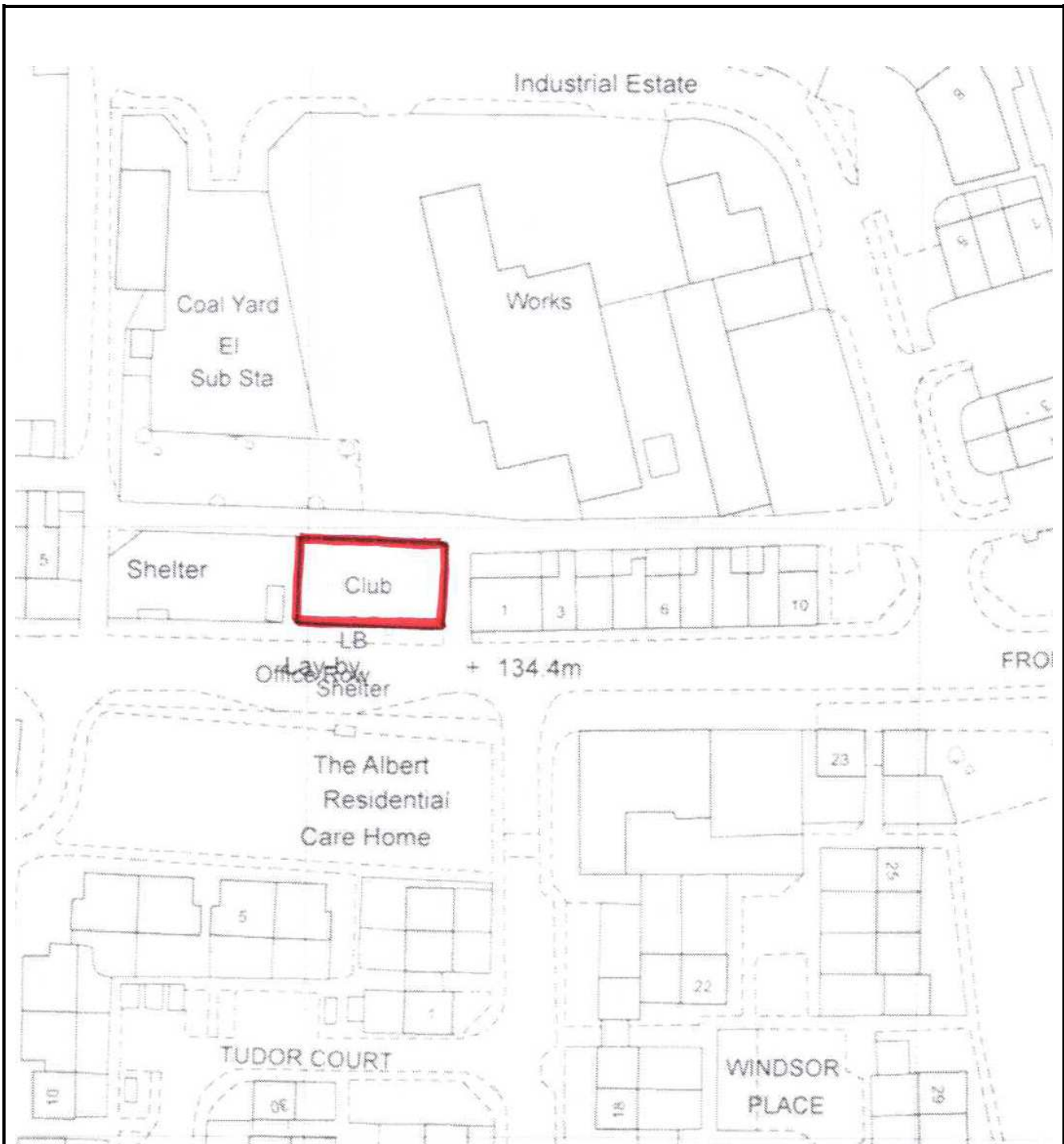
3. The grounds of objection were not considered sufficient to lead to reasons for refusal, as the benefits of bringing the building back into use were considered to outweigh any potential adverse impacts arising from the development.

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



**Planning Services**

**PROPOSED CHANGE OF USE FROM PUBLIC HOUSE TO EDUCATIONAL CENTRE (CLASS D1:NON-RESIDENTIAL INSTITUTIONS) at MELROSE ARMS OFFICE ROW FRONT STREET, SHOTTON COLLIERY DH6 2NA PL/5/2011/0060**

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**Comments**

**Date** 8<sup>th</sup> May 2012 **Scale**

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## Planning Services

# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION NO:	PL/5/2011/0082 & PL/5/2011/0083
FULL APPLICATION DESCRIPTION	CHANGE OF USE FROM RESIDENTIAL TO HOTEL (C3 TO C1) (RESUBMISSION INCLUDING REVISED AND ADDITIONAL INFORMATION) AND ASSOCIATED LISTED BUILDING CONSENT
NAME OF APPLICANT SITE ADDRESS	CASTLE EDEN PARTNERSHIP THE CASTLE, THE VILLAGE, CASTLE EDEN TS27 4SL
ELECTORAL DIVISION CASE OFFICER	Barry Gavillet 03000261958 dmcentraleast@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSAL

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1. **Site:** The application site lies within the settlement of Castle Eden and is within the Castle Eden Conservation Area. The site is located towards the northern edge of the settlement and is accessed via a long private driveway, which connects into The Village to the south of the site. The Village is lined by St James' Church and a number of residential properties and links onto the B1281, which runs in an east-west direction to the southern edge of The Village. The B1281 provides links with the A19 and A181 in the west and Blackhall Colliery and the coast in the east. The Castle itself is a grade II\* listed building and is set in a historic garden. There are other residential properties which adjoin the application site to the north, developed as conversions of a former wing of the castle building.
2. **Proposal:** The current application proposals relate to the change of use of The Castle from a dwellinghouse (Use Class C3) to a 10-bedroom hotel (Use Class C1). The hotel would involve the creation of a restaurant and bar area along with a commercial kitchen. Access to the hotel would be off the B1281 and along The Village to the south of the site with parking spaces located to the front of The Castle. There are no external alterations proposed, however internally there would be some walls removed and partition walls created.
3. The application is being reported to committee as the Parish Council have objected to the proposals and due to the contentious nature of the application.

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## PLANNING HISTORY

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77/286/DM – Demolition of part of Castle. Approved

77/293/CM – Change of use from office to hotel and restaurant. Refused

5/79/319/CM – Change of use from offices to dwellinghouse. Approved.

5/83/847 – Change of use from dwellinghouse to aged persons residence, restaurant with conference facilities and bar. Withdrawn.

84/137 – Change of use to aged persons residence. Refused.

85/367 – Restaurant, bar and lounges. Refused.

99/99 – Change of use from offices to 6 no. dwellings. Approved.

PL/5/2010/0447 – Change of use from residential to hotel. Approved.

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## PLANNING POLICY

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### 4. NATIONAL POLICY:

The National Planning Policy Framework (NPPF) is a material consideration in the determination of planning applications, and advances a presumption in favour of sustainable development to encourage economic growth.

On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). The framework is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. Three main dimensions to sustainable development are described; economic, social and environmental factors. The presumption is detailed as being a golden thread running through both the plan-making and decision-taking process. This means that where local plans are not up-to-date, or not a clear basis for decisions, development should be allowed. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Planning Policy Statements and Planning Policy Guidance Notes are cancelled as a result of the NPPF coming into force. The Regional Spatial Strategy remains part of the Development Plan until it is abolished by Order using powers within the Localism Act.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

### 5. REGIONAL PLAN POLICY

*The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.*

In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when the



forthcoming Local Government Bill becomes law, and weight can now be attached to this intention.

Policy 1 - Strategies, plans and programmes should support a renaissance throughout the North East

Policy 2 - Seeks to embed sustainable criteria through out the development process and influence the way in which people take about where to live and work; how to travel; how to dispose of waste; and how to use energy and other natural resources efficiently.

Policy 3 -The RSS recognises that climate change is the single most significant issue that affects global society in the 21st century. Policy 3 will seek to ensure that the location of development, encouraging sustainable forms of transport, encouraging and supporting use of renewable energy sources, and waste management all aids in the reduction of climate change.

Policy 4 - National advice and the first RSS for the North East advocated a sequential approach to the identification of sites for development, recognising the need to make the best use of land and optimize the development of previously developed land and buildings in sustainable locations.

Policy 7 - Seeks to promote the need to reduce the impact of travel demand particularly by promoting public transport, travel plans, cycling and walking, as well as the need to reduce long distance travel, particularly by private car, by focusing development in urban areas with good access to public transport.

Policy 8 - Seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.

Policy 11 - Strategies, plans and programmes, and planning proposals, should support the development of a vibrant rural economy that makes a positive contribution to regional prosperity, whilst protecting the Region's environmental assets from inappropriate development.

Policy 16 - Strategies, plans and programmes and planning proposals should promote culture and tourism, including provision for sport and leisure.

Policy 32 - Strategies, plans and programmes and planning proposals should seek to conserve and enhance the historic environment of the Region.

Policy 33 - Seeks to enhance and protect internationally and nationally important sites and species, developing habitat creation whilst seeking to reduce the spread of, and eliminate, invasive species

## **6. LOCAL PLAN POLICY:**

### District of Easington Local Plan

Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.

Policy 7 - Development which adversely affects the character, quality or appearance of Areas of High Landscape Value (AHLV) will only be allowed if the need outweighs the value of the landscape and there is no alternative location within the County.

Policy 18 - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.

Policy 22 - The character, appearance and setting of the conservation areas will be preserved and enhanced.

Policy 24 - Development which adversely affects the character, appearance, special architectural features or setting of a listed building will not be approved. The retention of architectural or historic features will be encouraged. Demolition of a listed building will be only be allowed in exceptional circumstances.

Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.

Policy 37 - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **7. STATUTORY RESPONSES:**

Parish Council – objection. Concerns include lack of parking, inadequate access and the loss of residential amenity.

English Heritage – Should be determined in accordance with national policy.

Environment Agency – Objection. No information has been provided to ensure that non-mains drainage is adequate.

Northumbrian Water – No objections

### **8. INTERNAL CONSULTEE RESPONSES:**

Highways Officer – no objections subject to the creation of an adequate visibility splay on the junction of The Village and the B1281.

Design and Conservation – objection. Visibility splay works would have an adverse impact on the conservation area

Ecology Officer – no objections

Tree Officer – objection. Loss of trees required by visibility splay would have an adverse impact on the conservation area

Environmental Health – no objections

## **9. PUBLIC RESPONSES:**

The proposals have been advertised by way of press notices, site notices and letters to individual residents.

Approximately 64 letters of objection have been received from residents some of which have been sent in more than once and some of which are from the same address. In addition to this an objection from the Castle Eden Residents Association on behalf of 17 residents of the Village. The main reasons for objection are summarised below:

*Concerns that the description of development on the planning application forms is inconsistent with the scheme described in the Planning Statement and other submitted documents. The forms state a simple change of use to hotel; but the documents disclose that there will be also be a bar and restaurant, open to the public, and functions including weddings will take place in the grounds.*

*The red line defines the application site and does not include any land beyond the north wall of the Castle. This means the hotel would have no rear access for either servicing or fire escape purposes.*

*The principle of introducing a new hotel is supported at national level in PPS4 & PPS7 as bringing investment into the area. However there are no figures to indicate what level of investment will be made and any evidence to substantiate the positive benefits claimed. Given this is a modest 10 bed hotel then those benefits could be equally modest.*

*However policy EC7 of PPS4 only supports leisure developments which benefit communities and enrich the character of the countryside. This scheme would be contrary to both of those criteria.*

*Castle Eden was designated as a Conservation Area in 1976 and the council has a duty to preserve or enhance the character and appearance of that area.*

*The existing character of this area is rural tranquil with only residential uses and the church. A commercial hotel would generate a significant level of activity, including residents, visitors to the restaurant and bar, deliveries and functions. This would introduce a discordant element not in keeping with the existing character of the Conservation Area.*

*The Applicant's Planning Statement has only considered the impact of the physical alterations to the Castle and had completely ignored the harm which would be caused by the significant increase in activity and traffic in the Conservation Area. This scheme would be contrary to Policy C1 of the Local Plan which requires all proposals to preserve or enhance the character and appearance of the village and Policy 22 whereby development will not be allowed if it detracts from the character of a Conservation Area.*

*Policy C2 permits the re-use of large buildings in Castle Eden but again there would be a conflict with criterion (i) which requires such development not to have an adverse effect on the character of the area.*

*The access from the B1281 passes along the narrow street with houses built close to the road on either side, through the parkland and then past Holly House and Burdon House into the site. The traffic associated with ten bedrooms, a public bar, restaurant and functions would pass close to the windows of many houses which presently do not have any passing traffic other than to the modest number of neighbouring houses.*

*The traffic would include deliveries of food and drink, laundry etc and comprise a high proportion of heavy goods vehicles which would cause congestion and further disturbance to residential amenity. The traffic would also be generated over a long working day, from staff arriving early for breakfast service to visitors leaving late or residents returning back after a night out. The impact of this activity on the living conditions of occupiers on a day to day basis would be both chronic and substantial.*

*The hotel kitchen and other service rooms would be accessed through a courtyard shared by four other residential properties. The comings and goings of a hotel service entrance would be constant and for most of the day and evening*

*Burdon House and Yew Tree House have party walls with the castle and there would be a close juxtaposition of commercial rooms in the hotel with private living rooms. For example the kitchen would adjoin Yew Tree House and the bar/lounge would adjoin Burdon House. It is completely unacceptable to have this level of noise and disturbance imposed upon private houses.*

*Furthermore there is a large window in the Castle which lights the main staircase and directly overlooks the rear courtyard. The constant use of this staircase by residents and staff will cause overlooking of private windows and amenity space.*

*The main entrance to the hotel is through the Orangery / Palmhouse overlooking Burdon House and its only garden area. As the application site shows there is no access from the rear of the Castle so all deliveries will have to be made through the Orangery. This would cause significant harm to the amenity of the occupiers of Burdon House whilst in their house and would make their garden unusable.*

*The use of the grounds for functions is acknowledged in the Planning Statement as forming part of this application. This could involve hundreds of people in a marquee in the garden with the attendant noise and general disturbance which arises from social functions, the provision of alcohol and loud music.*

*The close juxtaposition of a commercial hotel and private houses is entirely unsatisfactory for all the reasons outlined above. The change of use would cause a serious adverse impact on the living conditions and amenity of people living next to The Castle and along the access road.*

*Policy 35 of the local Plan highlights the need for good neighbourliness in planning. This scheme would, for the numerous reasons outlined above, have a serious adverse affect on the living conditions and privacy of occupiers of both adjoining houses and on the access route. This would be contrary to Policy 35 of the Local Plan.*

*In the submitted documents there is no proper assessment of the likely levels of traffic generation or the impact on the access road and junction with the B1281. Mr Glenwright for the County as Highway Authority suggests that this could be in the region of 200 movements per day. In such circumstances whereby the applicants supporting documents lack credibility the Objectors have commissioned a Transport Assessment. This was undertaken by Charles Thompson BSc(Eng), C Eng, MICE, MCHIT, Dip Trans Eng, RMaPS, MSoRSA. As a Chartered Engineer with over 37 years of experience he is appropriately qualified to assist with highway matters.*

*The Report of Mr Thompson concludes that the existing transport infrastructure generally operates successfully with church activities being problematic. The visibility at the junction with the B1281 is below the standard required for new developments and is considered inadequate by the LHA for a 7 bedroom hotel. In such circumstances there is a clear conflict with Policy 36 of the Local Plan and the application should be refused for that reason alone notwithstanding any claimed, but completely unsubstantiated benefits.*

*The applicant does not own and does not therefore have any control over the land to achieve the required splay. The use of a Grampian condition is not therefore appropriate.*

*There is a complete lack of information in relation to parking provision both for the hotel and for functions. The plans show four parking spaces on land in the ownership of Yew Tree House which is not in the control of the applicant and will not be made available for this development. Ten spaces for ten bedrooms takes no account of visitors using the bar and restaurant and is completely inadequate.*

*Common sense dictates that people attending a function in a remote location without public transport will travel by private vehicle. The lack of parking facilities for these events would cause complete and utter chaos in the Village and on the surrounding roads.*

*The applicant has submitted an Ecology Report which purports to assess the impact on bats. It identifies that works in the loft are likely to disturb a bat roost and concludes that "we can not be confident that this proposal will not have an adverse impact on bats" in relation to use of the grounds.*

*It is incumbent on a decision making authority to properly assess the impact on European protected species at the planning application stage. This involves a survey, identification of potential impacts and in the case of derogation from the statutory duty under the Habitat Regulations any mitigation. This statutory process has not been followed and for that reason alone the application should be refused. The scheme would, for the same reason, also be contrary to Policy 18 of the Local Plan.*

*The Planning Statement clearly includes reference to outdoor events taking place at The Castle. If a change of use to hotel was granted then part of the grounds could be used for functions, either within the planning unit of The Castle or under Part 4 Class A (Temporary Uses) of the General Permitted Development Order 1995. These functions could accommodate unlimited numbers of guests and, in the case of temporary uses under the GPDO, would have no limit on hours or operation. The impact on the residents of the houses around would be catastrophic. The traffic and noise associated with a wedding party of, say, 200 guests in close proximity to private houses would cause substantial harm to the amenity of the occupiers.*

## **10. APPLICANTS STATEMENT:**

It is noted that the application proposals have been subject to a number of objections from local residents. The applicant has sought to engage with the local action group in respect of the objections raised in an attempt to address these issues where possible. However, the action group have formally confirmed in writing that they would be unwilling to discuss their concerns with the applicant. We therefore hope that Members will acknowledge that the applicant has sought to actively engage with the local community in respect of their stated concerns. Notwithstanding this, we do not consider that the issues raised by local residents would outweigh the clear benefits provided by the current application proposals.

It is acknowledged that a number of residents have raised concerns in respect of the impact of the proposed development upon residential amenity. However, The Castle is a substantial property and the owners have hosted a number of large parties and private events in recent years. Over the course of the last five years the owners have hosted numerous private parties for hundreds of guests, which have included catering, music and full occupancy of the rooms. It is understood that no complaints have been submitted to the Council in respect of these functions from local residents and, on this basis, it is not considered that any future functions associated with the proposed hotel would give rise to a significantly greater impact on the amenities of neighbouring residents than the current use. We do not therefore consider that impact upon residential amenity would provide sufficient grounds to withhold planning permission, particularly in view of the significant economic, heritage and highway safety benefits provided by the application proposals. Furthermore, as Members and Officers will be aware, conditions could be imposed on any subsequent planning approval to further mitigate any impacts of the proposed development.

The current application proposals will give rise to a number of direct and indirect economic benefits at the local level. The proposed hotel will create a total of 12 full time jobs and will also offer support to a number of local businesses in the area through increased visitor spend. This would include public houses, restaurants, cafes, shops and visitor attractions within the local area and County Durham as a whole. In addition, it is proposed to source food and drink for the hotel restaurant and bar from local suppliers and the on-going maintenance and management of the hotel would create opportunities for a number of other local businesses and trades, including plumbers, electricians, heating engineers, landscape contractors and domestic services.

The Castle is a Grade II\* listed building and therefore forms a heritage asset of national significance. The property currently forms a substantial private dwelling and there are significant costs associated with the general upkeep and maintenance of the building. The application proposals will result in the sensitive conversion of the property, which will retain and restore the key architectural and historic features of the building, and the establishment of a commercial venture in the form of the proposed hotel will enable the essential maintenance and upkeep of this nationally significant building to be undertaken far more readily at the current time, thus ensuring that the building can be adequately maintained and safeguarded for enjoyment by this and future generations. The use of the building as a hotel, as opposed to a private residence, will also make The Castle much more accessible to the general public, ensuring that this Grade II\* listed building can be enjoyed and appreciated by more people than is currently the case.

The proposals also include improvements to the existing junction with the B1281. The Local Highways Authority have previously confirmed that the existing junction does not meet modern standards in terms of the visibility splays that are currently available. The proposed highway works involve the realignment of the road and junction improvement works to the B1281 to ensure that the required visibility splays can be achieved and, as

such, the proposed off-site highway works will lead to improved levels of highway safety, not only for guests of the proposed hotel, but also for existing local residents.

It is therefore evident that the proposed boutique hotel at The Castle will provide a number of direct and indirect economic benefits and will improve the tourism accommodation offer in the local area in line with local and national tourism objectives. The proposals will also secure the long term future and maintenance of this Grade II\* listed building through sensitive conversion to a hotel and will also provide significant highway safety improvements to the B1281. In light of the significant benefits offered by the current application proposals, it is respectfully requested that the proposed development is supported by Durham County Council through the grant of planning permission subject to any conditions deemed appropriate.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at [\(link to webpage\)](#)*

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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11. The main planning considerations relating to this application are the principle of the development, the impact on the listed building and conservation area, impact on surrounding residents, highways issues, ecology, drainage and objections received.

### **Principle of the development**

12. The National Planning Policy Framework (NPPF) provides the most up to date and relevant advice with regard to these proposals. At the heart of the NPPF is a presumption in favour of sustainable development; for decision making this means:
- Approving development proposals that accord with the development plan without delay; and
  - Where the development plan is silent or relevant policies are out of date, granting permission unless:
    - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
    - specific policies in the Framework indicate development should be restricted.
13. Although it could be argued that the proposals are in accordance with part 1 of the NPPF, Building a strong, competitive economy, these potential benefits such as the creation of 12 jobs, tourism and economic benefits to the surrounding area, are considered to be outweighed by the conflict with other specific policies in the NPPF, policies in the Regional Spatial Strategy for the North East and saved Local Plan Policies which are in accordance with the NPPF.
14. In particular, the proposals are not considered to accord with the following parts of the NPPF due to the lack of suitable access, insufficient information relating to non-mains drainage and the impact on the Conservation Area:
- Part 4 of the NPPF requires decisions to take account of whether safe and suitable access to the site can be achieved for all people.
  - Part 11 of the NPPF states that the planning system should contribute and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

- Part 12 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a contribution to or better reveal the significance of the asset should be treated favourably.
15. In addition to the above, the proposals are not considered to accord with the following specific saved District of Easington Local Plan Policies which are consistent with the NPPF due to the impact on the Conservation Area, the affect on the amenity of residents and the lack of a suitable access:
- Policy 22 states that the council will seek to preserve or enhance the character, appearance or setting of the district's conservation areas by:
    - Not allowing development which would detract from the character, appearance or setting of the conservation area;
    - Protecting important views into and out of the conservation area
    - Protecting trees, hedgerows, open spaces and other landscape features which contribute to the character or appearance of the conservation area and its setting.
  - Policy 35 requires the design and layout of development will be required to:
    - Have no serious adverse affect on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation;
  - Policy 36 requires development to provide Safe and adequate access capable of serving the amount and nature of traffic to be generated.
16. It is not considered that the proposals are in accordance with the above specific policies from both the NPPF and saved Local Plan policies. As such, the proposals are not considered to be acceptable in principle and any potential economic benefits which may arise from the scheme would be outweighed by the conflict with policy.

### **Impact on the Listed Building and Conservation Area**

17. Although the Design and Conservation Officer has no objections to the proposed internal works to the listed building itself, there have been objections with regard to the creation of the visibility splay on the B1281.
18. It is considered that the internal alterations would have no adverse impact on the special interest of the listed building and therefore the listed building consent would be acceptable. The internal alterations would provide for additional bathroom facilities to the hotel rooms and are not contentious, having no significant impact on the historic floorplan. The changes to the ground floor to provide a new kitchen area are less appropriate, requiring the removal of a section of curved historic wall to provide a small increase in kitchen workspace. It would be preferable to see this omitted from the proposals, but in isolation the loss of this section of wall would not justify the refusal of the Listed Building Consent application in its entirety.
19. The issues with the application for planning permission are less straightforward and involve significant works to the highway at the junction of The Village and the B1281 taking part of the verge to widen the road. These works would involve the removal of 12 trees and a high retaining bank would be formed opposite the junction extending approximately 100m to the eastern edge of the conservation area. The tree lined route into and out of the conservation area is an important part of its setting and relationship between the village and the wider countryside, and the loss of trees and



introduction of a high retaining bank would undermine this as well as the appearance of the road.

20. It is therefore considered that the proposed highway improvement works and associated loss of trees would have an adverse impact on views in and out of the conservation area, and would not preserve or enhance the appearance of the area contrary to saved Local Plan policies 1, 22 and 35 and part 12 of the National Planning Policy Framework.

### **Impact on surrounding residents**

21. The most relevant policy with regard to residential amenity is saved Local Policy 35. This policy states that development should have no serious adverse affect on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
22. In terms of traffic generation, the access from the B1281 runs along The Village which is a fairly narrow lane with houses built close to the road on either side, in essence this becomes a single lane road when cars are parked along its route. The traffic associated with a ten bedroom hotel, a public bar, restaurant and functions would create significant noise and disturbance to these properties along with properties which adjoin The Castle. This traffic is also likely to include delivery vehicles which may cause congestion and further disturbance to residential amenity.
23. In terms of noise, there are residential properties which directly adjoin The Castle, namely Burdon House and Yew Tree House. These properties would be directly adjoined to the kitchen, bar and lounge areas and therefore would be subject to significant noise and disturbance from residents, staff and other users of the facilities. Moreover, there is likely to be an adverse affect on the amenity of these residents and residents of The Village in terms of noise and loss of privacy due to the comings and goings of staff, residents and the public, especially when events such as weddings are taking place, attracting large numbers of visitors.
24. The main entrance to the hotel would be adjacent to Burdon House and its garden area. The proposals would cause significant harm to the amenity of the occupiers of Burdon House in terms of loss of privacy, noise and visual intrusion due to the comings and goings of visitors and staff using the main entrance and the car park which would be located to the front of the property.
25. In light of the above, it is considered that the proposals would have an adverse impact on residential amenity for both residents of The Village and residents of the properties which adjoin The Castle itself in terms of increased traffic, parking, loss of privacy, visual intrusion and general noise and disturbance associated with the activities in the proposed hotel, bar and restaurant, as well as functions held in the grounds. As such, the proposals are not considered to accord with saved Local Plan policy 35.

### **Highways Issues**

26. The proposals for a 10 bedroomed hotel are similar to those considered under the previous planning application for a 7 bedroomed hotel which was withdrawn, to which a highways objection was raised on the grounds of a substandard junction

- sight visibility splay to the west at the approach from The Castle onto the road junction with the B1281.
27. However, information submitted with the current application has made reference to ancillary outdoor events linked to the primary hotel use which may take place within the grounds, and this potential for outdoor events adds further justification to the need to improve the substandard junction sight visibility splay to the west at the approach from The Castle onto the road junction with the B1281.
  28. The Highways Officer has suggested that the proposed hotel could add an additional 43/46% vehicles per weekday/Saturday respectively, on the public highway through The Village down to the junction with the B1281, and depending on which peak hour is assessed the proposed hotel could on average add an additional 1 vehicle every 10-12 minutes inbound and an additional 1 vehicle every 12-15 minutes outbound.
  29. As stated above the highway grounds for objection to the 2010 planning application were based on the grounds of a substandard junction sight visibility splay to the west, at the approach from The Castle onto the road junction with the B1281 and as a result the applicant's Consulting Engineers have submitted various highway improvement schemes in an attempt to overcome the original highways objection to the 2010 planning application.
  30. In February 2012 the applicant's Consulting Engineers submitted an Engineering Layout. These plans were the most comprehensive received and resulted in generally overcoming the junction sight visibility problem as the 2.4 x 129 metres junction sight visibility splay was fully enclosed within the existing public highway. However the plans would need to be subject to some minor amendments, further details of the retaining wall would be required plus agreement to a commuted sum in relation to the replacement of the retaining wall after its 120 years design life and ongoing maintenance costs during its lifespan.
  31. Although the highway improvement scheme is acceptable to Highways Officers, it would result in the loss of 12 no. existing trees in the southern embankment to the east of the junction, as well as resulting in a significant retaining wall structure to support the southern embankment. This would result in an adverse impact on the character and appearance of the Conservation Area and has led to objections from both the Design and Conservation Officer and the Tree Officer.
  32. Notwithstanding the above, the applicants have failed to provide evidence that they have sufficient control over the land required for the necessary highways visibility splay works to be carried out. Therefore the required visibility splay works could not be secured through a planning condition and as such, there is no guarantee that these works could be carried out contrary to saved Local Plan Policy 36. On this basis, the proposals would be unacceptable in terms of highway safety if the visibility splays could not be provided.
  33. Even if the applicant could prove sufficient control over the land, the submitted highway improvement scheme would be deemed to be unacceptable in terms of its impact on the Conservation Area contrary to saved Local Plan Policy 22.

## **Ecology**

34. The Ecology Officer has confirmed that the ecology surveys submitted to inform the application are satisfactory although any planning approval would need a condition in order to ensure the suggested mitigation measures.

35. In terms of bats, evidence of a bat roost has been found which would require a European Protected Species Licence before any works could be undertaken. As part of this License application, the applicant would need to produce a detailed Method Statement that outlines all survey results, and how they would safeguard the favourable conservation status of bats at the site. The applicants' latest survey report gives a summary of the proposed mitigation and compensation strategy and although it does not give the fine details required for the European Protected Species Licence it gives a summary of the proposals which the Ecology Officer confirms is sufficient to inform the application.
36. A Great Crested Newt pond is present to the south of the B1281 where highways improvement works are proposed. The Ecology Officer has confirmed that the submitted surveys have adequately addressed the potential for Great Crested Newts being present in the pond in the farmland adjacent the proposed road realignment and that no further surveys are necessary, although the suggested mitigation should be conditioned as part of any planning consent.
37. The Ecologist has also confirmed that the surveys in respect of the roadside trees are sufficient to inform the application.

### **Drainage**

38. An objection has been received from the Environment Agency with regard to non-mains drainage. To date the applicant has not provided sufficient information which would ensure that the method of non-mains drainage would be adequate.

### **Objections received**

39. There have been a significant number of objections from local residents and the Parish Council. These objections are mainly based upon the loss of residential amenity, traffic issues and ecology, all of which have been covered in this report. It is considered that the Parish Council and public objections add weight to the reasons for refusal as outlined below.
40. With regard to the concern that the application was not advertised properly due to the reference to a bar and restaurant not being in the title, it is considered that these elements of the proposal are ancillary to the main hotel use and would normally be included in such developments. In addition, the Council has advertised the application several times in the press, and by way of site notices along with a number of letters to residents. It is considered that the proposals have been properly publicised in accordance with statutory requirements.
41. With regard to the concern that part of the grounds could be used for functions, either within the planning unit of The Castle or under Part 4 Class A (Temporary Uses) of the General Permitted Development Order 1995, this is not considered to be the case. This part of the Order only permits events to take place on open land and not within the curtilage of a building, which is the case here.

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## **CONCLUSION**

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42. In conclusion it is considered that the proposals are unacceptable due to the impact on residential amenity, highway safety, inadequate drainage and the potential

adverse impact on the Conservation Area. These issues have been highlighted in the significant number of objections from both the Parish Council and nearby residents.

43. As stated above the required highways visibility splay would have an adverse impact on the character and appearance of the Conservation Area due to the loss of trees and retaining wall structure. Notwithstanding this, the applicant has not provided evidence that they have a sufficient level of control over the land required to achieve the visibility splay and therefore would result in highway safety issues.
44. In addition to this the noise and disturbance relating to the activities in the hotel and the increase in traffic generation would have an adverse impact on the residential amenity of the properties adjoining the application site and the residents of The Village.
45. The planning proposals are therefore not considered to be in accordance with the relevant saved Local Plan Policies, the Regional Spatial Strategy for the North East or the National Planning Policy Framework.
46. With regard to the listed building consent it is considered that the internal alterations would have no adverse impact on the special interest of the listed building and therefore the listed building consent would be acceptable.

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## **RECOMMENDATION**

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That the planning application be **REFUSED** for the following reasons;

1. The Local Planning Authority are not satisfied that the applicant has sufficient control over the land required for the necessary highways visibility splay works to be carried out contrary to saved Local Plan Policy 36, North East of England Regional Spatial Strategy Policy 7 and the National Planning Policy Framework part 4. Notwithstanding this, the necessary highways visibility splay, if implemented, would have an adverse impact on the character and appearance of the Conservation Area by reason of the loss of trees and the visual impact of the retaining wall, contrary to saved Local Plan Policies 1, 7, 22, C1 and C2, North East of England Regional Spatial Strategy Policy 32 and National Planning Policy Framework part 12.
2. The proposal would have an adverse impact on adjacent and nearby residents in terms of increased traffic generation, noise and disturbance resulting from the hotel activities contrary to saved Local Plan Policies 1, 35, C1 and C2.
3. The application has not been accompanied by adequate information or justification on the use of non-mains drainage and in turn the application does not, therefore, provide a sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development, contrary to part 11 of the National Planning Policy Framework.

That the Listed Building Consent be **APPROVED** subject to the following conditions;

1. The works to which this consent relates must be begun not later than the expiration of three years beginning with the date on which the consent is granted.  
Reason: In accordance with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. No development shall commence until a photographic record of the interior of the building has been submitted to and approved in writing by the Local Planning Authority.  
Reason: To ensure that the character of the Listed Building is recorded on the Historic Environment Record in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.
3. Notwithstanding the submitted information, details of the replacement glazing to the roof of the orangery shall be submitted to and approved by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.  
Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.
4. Notwithstanding the submitted information, details of the proposed modification of garden doors to the orangery shall be submitted to and approved by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.  
Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.
5. Notwithstanding the submitted information, details of the proposed handrail to the cellar at a scale of 1:20 and including method of attachment to the existing walls and steps shall be submitted to and approved by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.  
Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.
6. Notwithstanding the submitted information, details of the new bar counters within cellar room 32 and ground floor room 7 as identified on the submitted plans including method of attachment to walls and floors shall be submitted to and approved by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.  
Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.
7. Notwithstanding the submitted information, details of the junction of the new partition walls to first floor room 12, first floor room 16 and second floor room 24 as identified on the submitted plans and any associated additional cornice or skirting details shall be submitted to and approved by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.  
Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.
8. Notwithstanding the submitted information, a method statement for the making good of any damage caused during removal of the existing walls to ground floor room 6, second floor room 31 as identified on the submitted plans and the glazed screen overlooking the main stairwell shall be submitted to and approved by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.

Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.

9. Notwithstanding the submitted information, the existing panelled doors between first floor rooms 12 and 13, and between second floor rooms 24 and 25 as identified on the submitted plans are to be retained and reused within the building. Further details of the architraves for the new door openings to these rooms at scale 1:20 are to be submitted to and agreed in writing by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.

Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.

10. Notwithstanding the submitted information, a method statement for the infilling of the existing doorway between second floor room 28 and the adjacent hallway as identified on the submitted plans, and details of the storage or reuse location for the panelled door to this room shall be submitted to and agreed in writing by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.

Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.

11. Notwithstanding the submitted information, details of the new door to cellar room 35 as identified on the submitted plans shall be submitted to and agreed in writing by the Local planning Authority before the development commences. Thereafter the development shall be completed in accordance with the approved details.

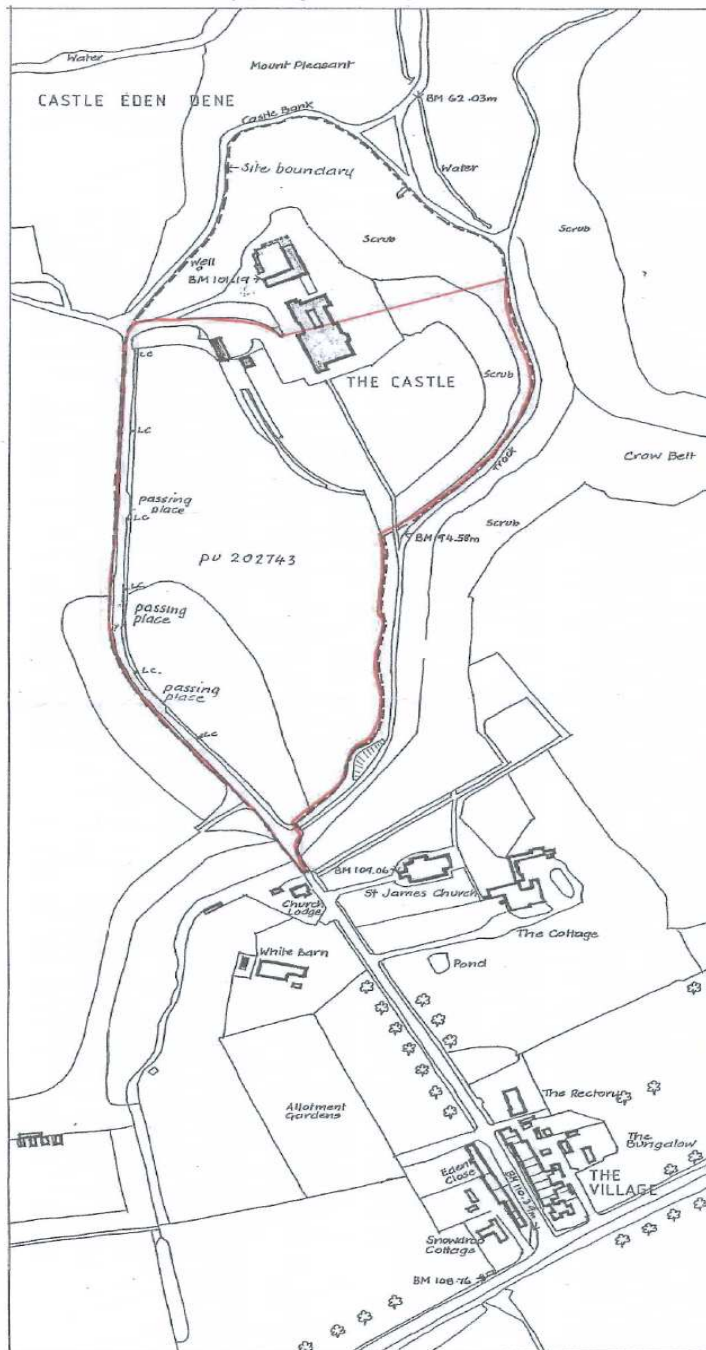
Reason: To safeguard the character of the Listed Building in accordance with Local Plan Policy 24 and National Planning Policy Framework part 12.

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



Planning Services

**CHANGE OF USE FROM RESIDENTIAL TO HOTEL (C3 TO C1) (RESUBMISSION INCLUDING REVISED AND ADDITIONAL INFORMATION) at THE CASTLE THE VILLAGE, CASTLE EDEN TS27 4SL PL/5/2011/0082**

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Comments

Date 8<sup>th</sup> May 2012

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## Planning Services

**COMMITTEE REPORT****APPLICATION DETAILS**

<b>APPLICATION NO:</b>	<b>PL/5/2012/0039</b>
<b>FULL APPLICATION DESCRIPTION</b>	<b>FRONT &amp; REAR TWO STOREY EXTENSIONS</b>
<b>NAME OF APPLICANT</b>	<b>MR G FALLOW</b>
<b>SITE ADDRESS</b>	<b>51 OCEAN VIEW, BLACKHALL TS27 4DA</b>
<b>ELECTORAL DIVISION</b>	<b>Blackhall</b>
<b>CASE OFFICER</b>	<b>Laura Martin</b> <b>03000261960</b> <b>dmcentraleast@durham.gov.uk</b>

**DESCRIPTION OF THE SITE AND PROPOSAL**

## Site:

1. The application site relates to a semi-detached property situated on the estate road of a residential area. The front elevation of the property is east facing and is approximately 13 metres from the public highway. To the rear of the site is a large garden, which is surrounded by a 1.8 metre high timber boarded fence. The property currently benefits from a 3.4 metre long single storey rear extension, which would be removed as part of the application.

## Proposal:

2. Full planning permission is sought for the erection of front and rear two-storey extensions at the site. The proposed front extension would measure 4.2 metres square and would be constructed with a hipped roof set at a lower level than the existing ridge height. Contained within this front section would be a third bedroom at first floor level and at ground floor level a utility room.
3. To the rear of the site the extension would measure 5.2 metres square and again would be constructed with a tiled hipped pitched roof. This would however be set at the height of the existing ridge at 7.1 metres. Contained within this section would be a new lounge at ground floor level and due to the reconfiguration of the first floor with the relocation of the bathroom to the first floor, the second bedroom would be at first floor level.
4. The application is brought before members of the planning committee at the request of Councillor Robert Crute due to the wider visual impact of the proposed development.

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## **PLANNING HISTORY**

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None relevant to the application.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

#### **5. National Planning Policy Framework**

On March 27<sup>th</sup> 2012 the Government published the National Planning Policy Framework (NPPF). The framework is based on the policy of sustainable development and establishes a presumption in favour of sustainable development. Three main dimensions to sustainable development are described; economic, social and environmental factors. The presumption is detailed as being a golden thread running through both the plan-making and decision-taking process. This means that where local plans are not up-to-date, or not a clear basis for decisions, development should be allowed. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Planning Policy Statements and Planning Policy Guidance Notes are cancelled as a result of the NPPF coming into force. The Regional Spatial Strategy remains part of the Development Plan until it is abolished by Order using powers within the Localism Act.

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/publications/planningandbuilding/letternppf>*

### **REGIONAL PLAN POLICY:**

6. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.*
7. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS.

### **LOCAL PLAN POLICY:**

8. District of Easington Local Plan
9. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords

with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

10. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
11. Policy 73 - Extensions or alterations to existing dwellings, requiring planning permission, will be approved provided that there are no serious adverse effects on neighbouring residents, the proposal is in keeping with the scale and character of the building and the proposal does not prejudice road safety or result in the loss of off street parking.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

12. Parish Council- No response received

### **INTERNAL CONSULTEE RESPONSES:**

13. Highway Section- Raises no objections

### **PUBLIC RESPONSES:**

14. 6 letters of notification were sent to neighbouring properties within the area. No letters of representation have been received in respect of the above development.

### **APPLICANTS STATEMENT:**

15. The reasons that I would like to give in support of a favourable decision are varied. They are based on Social, Planning, Regenerative and other grounds. I feel they would be better understood if they were conveyed verbally by myself or my representative at the Planning Meeting.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=117457>*

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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16. The main planning considerations in the determination of the application are:-
  - Impact upon residential amenity
  - Impact upon visual amenity

## **Impact upon residential amenity**

17. Appendix 7 of the Local Plan provides design guidance on extensions to existing dwellings, and states that two-storey rear extensions have to be considered upon their own merits. The rear extension would be set in from the shared boundary of the adjoining property, No. 52 Ocean View, by 2.1 metres. However, due to the overall projection of this section at 5.1 metres it would have an over bearing and visually obtrusive impact upon No. 52 to the south. It would also have a similar adverse impact on No. 50 Ocean View to the north, as it would project some 7 metres beyond their original rear elevation and would be located only 1 metre from their shared boundary. In addition due to the projection of the rear two-storey element it is considered that overshadowing would occur to both adjacent properties.
18. In respect of the front extension Appendix 7 of the Local Plan states that front extensions to existing dwellings should not project more than 1.5 metres forward from the existing building. A single storey front extension is proposed on the boundary with the adjoining property, No. 52. This has a projection of 1.5 metres and as such there are no amenity issues raised with this element of the works and it is in compliance with the guidance contained within the Local Plan.
19. A two-storey extension is also proposed to the front, adjacent to the single storey extension at the other side of the property. Appendix 7 of the Local Plan again states that two-storey front extensions will be considered on their merits. Whilst in this case it is acknowledged that No 51 Ocean View is set back from the neighbouring properties to the north, it is considered that this stepped arrangement is a feature of the streetscape. A substantial increase in the projection of the front of the property, as is proposed at 4.2 metres, would not only harm the wider setting of the extension but would also adversely impact upon the neighbouring property to the north, No. 50 Ocean View, by means of over shadowing and loss of light. In addition Appendix 7 states that front extensions should be sympathetic in scale and character to the building itself and the area generally. It is considered that the front extension is out of proportion with the host dwelling and does not respect the appearance of the property. Whilst it is also acknowledged that there are other properties within the street where there is a forward projection relative to an adjacent property, these are part of the original design rather than substantial additions as would be the case here.

## **Impact upon visual amenity**

20. Durham County Council will seek to resist an extension contrary to the intentions of the Adopted Local Plan and which it considers to have an adverse and detrimental impact upon the amenities of the surrounding area.
21. Policy 73: Extensions and/or alterations to Dwelling houses and in particular part ii) states that a proposal will only be approved if it is in keeping with the scale and character of the building itself and the area generally in terms of site coverage, height, roof style, detailed design and materials. In this respect the proposed development would increase the size of the host dwelling by more than 100% and as such would not be classified as subordinate to the existing property. Whilst it is noted that the property is located on a substantial plot the proposed size and massing of the development creates an over dominant and oppressive feature on the host

dwelling and as such is considered to be out of scale and context with its surroundings.

22. Policy 35: Impact of Development states that extensions to existing buildings should also be designed to reflect the scale and character of adjacent buildings and the area generally. The proposal by virtue of its size and massing would create an excessive form of development within the area and as such does not reflect the local vernacular, therefore being out of character with adjacent dwellings contrary to the intentions of Policy 35.
23. By way of additional information, the Case Officer has carried out several pre-application discussions with the applicant and has advised that an application of this size and design would be strongly resisted by the authority. The applicant as part of the application process has also been invited to consider amending the current planning application, but has declined to do so.

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## **CONCLUSION**

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24. To conclude, it is considered that the extensions would result in an excessive development resulting in adverse visual and residential amenity from its scale and massing, to such an extent that warrant refusal of this application. It is considered that the proposals would have a significant adverse effect on the amenities of adjacent residents in terms of visual intrusion, overbearing appearance and overshadowing. Furthermore, the proposals would adversely impact on the appearance of the host property and the street scene in general.

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## **RECOMMENDATION**

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

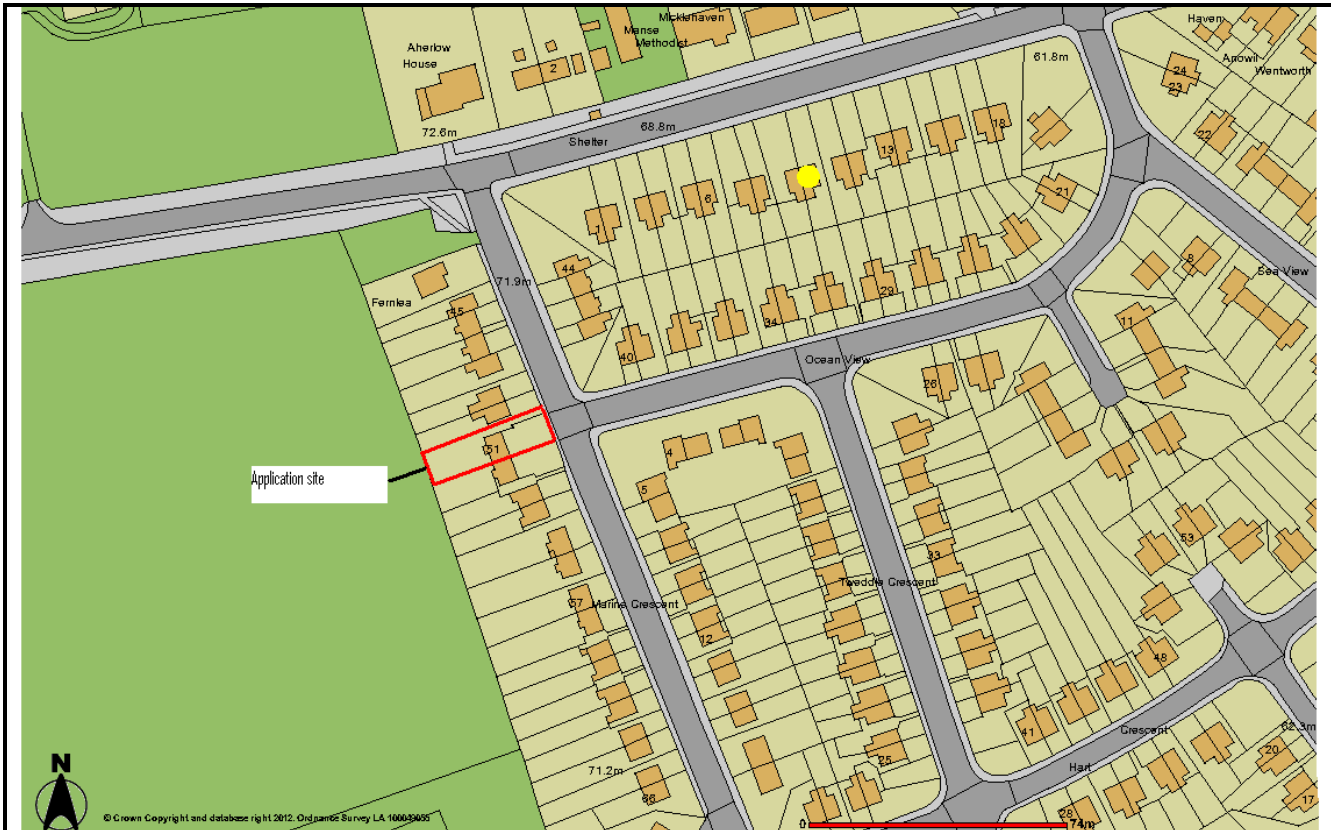
The proposal, by virtue of its design, scale, massing and location represents an excessive form of development that is not in keeping with the scale and character of the host dwelling and would be visually obtrusive, adversely affecting the character and appearance of the property and its immediate surroundings and having a seriously detrimental impact on the amenities of adjacent residential properties in terms of visual intrusion, overbearing appearance and overshadowing. As such, the proposal is contrary to Policies 1, 35 and 73 of the District of Easington Local Plan.

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans.
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



**Planning Services**

**Proposed FRONT & REAR TWO STOREY EXTENSIONS at 51 OCEAN VIEW, BLACKHALL, TS27 4DA PL/5/2012/0039**

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**Comments**

**Date** 8 May 2012

**Scale** 1:1250

# COMMITTEE REPORT

## **APPEAL UPDATE - DECISIONS**

### **Appeal by Mr Dominic Charles Hunt**

**Site at 9 Hope Street, Sherburn, Durham DH6 1EG**

**Appeal Reference: APP/X1355/D/12/2170293**

**Planning Reference: 4/11/00704**

An appeal was lodged against the Council's refusal for the proposed erection of a second storey side extension at 9 Hope Street, Sherburn, Durham DH6 1EG.

The inspectorate considered that the proposed extension would be particularly incongruous because it would appear high on the shoulder of a traditional building with a completely different profile. It was therefore considered that the proposal conflicts with the objectives of the relevant saved policies in the City of Durham Local Plan.

The appeal was therefore dismissed.

### **Recommendation**

That the report be noted

### **Appeal by Mr Harding**

**Site at 13 Neville Street, Durham DH1 4EY**

**Appeal Reference: APP/X1355/A/11/2165111**

**Planning Reference: 4/11/00342**

An appeal was lodged against the Council's refusal for the change of use of existing house in multiple occupation (use Class C4) to 7 no. bedroom house in multiple occupation (sui generis) involving the creation of additional upper storey extensions at 13 Neville Street, Durham DH1 4EY

The inspectorate considered that the additional storey of the appeal scheme would significantly disrupt the uniformity of the building heights on the west side of the street and the regularity of the stepped roofscape. The scheme would neither preserve nor enhance the character or appearance of the Conservation Area. The scheme conflicts with the requirements of policy E22 of the adopted City of Durham Local Plan.

The appeal was therefore dismissed.

### **Recommendation**

That the report be noted.

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