



## Area Planning Committee (Central and East)

**Date** Tuesday 11 November 2014  
**Time** 1.00 pm  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest
4. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) CE/13/01014/OUT - Land at Former Thorpe Maternity Hospital, Andrews Lane, Easington (Pages 1 - 18)  
Proposed Residential Development (Outline).
  - b) DM/14/01418/FPA - Kingslodge Hotel, Waddington Street, Durham, DH1 4BG (Pages 19 - 34)  
Outline planning permission for the remodelling of the building including the erection of ground, first, second and Mansard roof third floor extensions with layout and landscaping reserved and full planning permission for change of use to student accommodation.
  - c) DM/14/00573/FPA - Land to the west of Deerness Heights, Brandon, Durham (Pages 35 - 52)  
Erection of 89 dwellings.

- d) 4/14/02160 & 4/14/02161 - Old Shire Hall, Old Elvet, Durham  
(Pages 53 - 78)  
Change of use from office (B1) to 43 bedroom hotel and 29 room aparthotel (C1) restaurant and bar (A3/A4) with 150 covers, leisure club and spa (D2) and associated access, car parking and landscaping. Internal and external alterations to a Listed Building.
- e) DM/14/02141/OUT - The Garth, Mill Road, Langley Moor, Durham, DH7 8HF (Pages 79 - 92)  
Outline application for 5 no. dwellings with all matters reserved except access.
- f) DM/14/02631/VOC - Cod on the Rocks, 1A Broad Road, Blackhall Rocks, Hartlepool, TS27 4BB (Pages 93 - 102)  
Variation of Condition 2 Pursuant to Planning Permission Reference CE/13/00900/FPA to allow continuous opening between 11.00 and 21.00 Monday to Sunday.

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

3 November 2014

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

Councillor P Taylor (Chairman)  
Councillor A Laing (Vice-Chairman)

Councillors A Bell, G Bleasdale, J Clark, P Conway, M Davinson, K Dearden, D Freeman, S Iveson, C Kay, J Lethbridge, R Lumsdon, B Moir and J Robinson

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>CE/13/01014/OUT</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Proposed Residential Development (Outline)</b>
<b>NAME OF APPLICANT:</b>	<b>Woodside Leisure Ltd</b>
<b>ADDRESS:</b>	<b>Land at Former Thorpe Maternity Hospital, Andrews Lane, Easington</b>
<b>ELECTORAL DIVISION:</b>	<b>Easington</b>
<b>CASE OFFICER:</b>	<b>Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is the former Thorpe Maternity Hospital located on Andrews Lane which is situated between the settlements of Peterlee (to the south) and Easington (to the north). As the site is outside of any settlement boundary identified in the District of Easington Local Plan it is technically classed as being in the countryside. The site can be described as 'L' shaped and is bounded by mature trees and hedgerows to the east and west. There is a fence line to the south and mounding has been introduced to the north boundary to prevent unauthorised access. As part of the former Maternity Hospital there were a number of buildings located on the site which have since been demolished however part of the access road as well as some foundations can still be seen. Some of the mature trees on the site are protected by Tree Preservation Orders (TPO's).
2. The nearest neighbouring residential properties are located over 250 metres away to the east, located in Little Thorpe. The A19 motorway is located over 400 metres to the west. The adopted highway of Andrews Lane is directly to the north of the site. The site is currently bounded by open agricultural fields to the south, east and west.

### The Proposal

3. Outline planning permission is sought for residential development with all matters reserved for future consideration.
4. The application is supported by various documents and assessments including an indicative masterplan which shows how the general layout of the site can be mapped out to accommodate approximately 50 properties.
5. The application is reported to the Planning Committee as it constitutes a major development.

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## PLANNING HISTORY

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6. Although not specifically related to this site, Members may recall that outline planning permission was granted at a planning committee in 2013 for 900 houses on land to the north of Lowhills Road, Peterlee. The siting of these 900 houses would wrap around the application site and properties would be located on the fields to the south, east and west of the site in this application.

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## PLANNING POLICY

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### NATIONAL POLICY:

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
9. The following elements are considered relevant to this proposal;
10. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
11. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority’s to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
13. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in

greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

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

*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/nppf>

## **LOCAL PLAN POLICY:**

### **District of Easington Local Plan**

17. *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.
18. *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.
19. *Policy 6 -* Green Wedge is allocated between Easington Village and Peterlee, development will be limited to agriculture, horticulture, forestry, wildlife reserves and informal recreation involving the quiet enjoyment of the countryside. Proposals should maintain the open nature of this area.
20. *Policy P6 –* The former Thorpe Hospital site is allocated for business, leisure or recreation uses provided that the development does not detract from the openness of the green wedge; the scheme should be designed and landscaped to a high standard; adequate access should be achieved; and archaeological remains should be protected.
21. *Policy 14 -* Development which adversely affects a designated or candidate Special Area of Conservation and is not connected with managing the scientific interest will only be approved where there is no alternative solution and there is an overriding national interest where it is necessary for reasons of human health or safety; or there are beneficial consequences of nature conservation importance.
22. *Policy 15 -* Development which adversely affects a designated Site of Special Scientific Interest will only be approved where there is no alternative solution and it is in the national interest.

23. *Policy 16* - Development which adversely affects a designated Site of Nature Conservation Importance/Local Nature Reserve/ancient woodland will only be approved where there is no alternative solution and it is in the national interest.
24. *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.
25. *Policy 19* - Areas of nature conservation interest, particularly those of national importance will be protected and enhanced.
26. *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.
27. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
28. *Policy 37* - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).
29. *Policy 66* - Developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site.
30. *Policy 74* - Public Rights of Way will be improved, maintained and protected from development. Where development is considered acceptable, an appropriate landscaped alternative shall be provided.
31. *Policy 75* - Provision for cyclists and pedestrians will be reviewed to provide safe and convenient networks.
32. *Policy 77* - The Council will seek to encourage the improvement of the public transport service and the rail transport of freight in the district.
33. *Policy 90* – The Council will seek to secure outdoor sports facilities in the settlements of Peterlee and Seaham and at a district wide level.

**EMERGING POLICY:**

34. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
35. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in

favour of sustainable development contained in the National Planning Policy Framework.

36. *Policy 15 (Development on Unallocated Sites)* - states that all development on sites that are not allocated in the County Durham Plan will be permitted provided the development is appropriate in scale, design and location; does not result in the loss of a settlement last community building or facility; is compatible with and does not prejudice any intended use of adjacent sites; and would not involve development in the countryside that does not meet the criteria defined in Policy 35.
37. *Policy 35 (Development in the Countryside)* – Sets out that new development will be directed to sites within built up areas, or sites allocated for development, whilst the countryside will be protected from inappropriate development.
38. *Policy 39 (Landscape Character)* – States that proposals for new development will only be permitted where they would not cause significant harm to the character, quality or distinctiveness of the landscape, or to important features or views, unless the benefits of the development clearly outweigh its impacts.
39. *Policy 41 (Biodiversity and Geodiversity)* – States that proposals for new development will not be permitted if significant harm to biodiversity and geodiversity, resulting from the development, cannot be avoided, or adequately mitigated, or as a last resort, compensated for.
40. *Policy 47 (Contaminated and Unstable Land)* – Sets out that development will not be permitted unless the developer can demonstrate that any contaminated or unstable land issues will be addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact upon human health, and the built and natural environment.
41. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

42. *Environment Agency* has raised no objections to the proposed scheme. Should permission be granted a condition is requested for the development to be in accordance with the mitigation measures detailed in the Flood Risk Assessment (FRA).
43. *Natural England* has not raised any objections but have provided advice on internationally and nationally designated sites; protected species; biodiversity enhancements; and green infrastructure.
44. *Northumbrian Water* has not raised any objections subject to details for the disposal of surface and foul water to be submitted prior to development commencing.
45. *The Coal Authority* has confirmed that the site does not lie within a development high risk area, and no objections are raised.

46. *Durham County Highways Authority* has not raised any objections to the proposed development given it's an outline application with all matters reserved. Advice has been given in terms of access, pedestrian links and parking standards.
47. *Easington Village Parish Council* have objected to the proposed scheme indicating that it does not comply with local plan policies 3, 6 and P6; and also indicating that the site is not allocated in the emerging County Plan as an allocated site. Other concerns relate to the impact on schools as well traffic problems.
48. *Peterlee Parish Council* have raised concerns relating to the additional pressures such a development would have on existing school places increased traffic and drainage/flooding issues near the site.
49. *Campaign to Protect Rural England* considers the application should be refused and the site remain as a green arm into the Lowhills development.

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

50. *County Spatial Policy Team* has not raised any objections to the proposed scheme.
51. *County Landscape Team* has no objections however it is considered vital that the layout is modified in order to ensure the protected trees are not affected and suitable open space is provided. This may result in the reduction of properties on the site.
52. *County Tree Officer* has not raised any objections. A condition is requested for an Arboricultural Impact Assessment and Tree Constraints Plan to be submitted to ensure that the protected trees on the site are not adversely compromised during development.
53. *County Public Rights of Way Section* has confirmed that there are no recorded public rights of way through the site.
54. *Drainage Officer* has not offered any objections to the scheme.
55. *County Environmental Health (Noise, dust and light)* has not raised any objections.
56. *County Environmental Health (Contaminated land)* has not raised any objections subject to conditions requiring the submission of a desk tops study of the site.
57. *County Environmental Health (Air quality)* has not raised any objections.
58. *County Archaeology Section* has not raised any objections to the scheme. A condition is recommended for further archaeological works to be undertaken prior to development commencing.
59. *County Ecology Section* has not raised any objections to the proposed scheme.
60. *County Housing Development and Delivery Team* has not commented on the proposals.
61. *Sustainability Team* has indicated that the applicants commitment to 10% improvement in carbon emissions is fully supported. It is noted that in terms of the location sustainability it is considered that the development is not within easy walking distance of services and facilities. Although it is noted that the site is within walking distance to a variety of facilities including schools. The local centre associated with the Lowhills development will also benefit the sustainability of the site.



## **PUBLIC RESPONSES:**

62. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. 8 letters of objection have been received.
63. Concerns have been raised with regards impacts upon highways, in particular the increase in traffic which would have an adverse impact on highway safety. A local resident has noted that Andrews Lane is used as a lay by where vehicles park, and that this function would be lost if the development was approved.
64. It has been noted that the proposed development does not accord with local plan policies as it is actually allocated for hotel, leisure or commercial use. The site is also not identified in the emerging County Plan as a housing site. It is considered that the housing need in this area is already met by other approved developments. Subsequently there is not considered to be a demand for housing. It is also noted that brownfield sites should be developed on before greenfield sites. Residents have raised concerns that there is a lack of school places in the area and this development would add additional pressure on educational facilities in the area.
65. The strategic gap is needed as part of the green wedge which separates Easington and Peterlee. This development would result in the loss of open space between two villages. The development would therefore have an adverse impact on the character and appearance of the countryside according to local residents. Some local residents consider this site to be a beauty spot which is currently used as a public amenity area. The site also has a number of trees which are protected by preservation orders. It is considered by residents that the development would result in the loss of habitat and have an adverse impact on ecology and wildlife. It is noted that there is Japanese Knotweed on the site which should be removed securely.
66. Finally, some residents have raised the sensitive issue of potential burials of human remains on the site. Given the previous use of the site as a maternity hospital, some local residents have indicated that there are baby burials on the site.

## **APPLICANTS STATEMENT:**

67. We believe we have demonstrated that the principle of housing development is acceptable. The proposal would re-use previously developed land; close to services; previously allocated for development in the Easington Local Plan (2001) and surrounded by land on which planning permission has been granted for housing. There is a housing need for the County that can be met by this site. The proposal would have no material effect on the character and appearance of the area. Specialist consultants have confirmed that there is no risk associated with flooding or surface water drainage on the site. All trees have been surveyed by a specialist consultant and will be protected throughout the development process. Specialist consultants have confirmed matters of archeological interest, historical remains and land contamination can be controlled by standard conditions. A specialist bat consultant has confirmed that there is no evidence of bats roosting on the site. There would be no effect on highway safety. The proposal would provide a suitable use of the site that compliments and respects existing landscape with a sustainable housing development that can be delivered immediately.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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68. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of residential development of the site; highway and access issues; affordable housing and S106 contributions; ecology; archaeology; layout, design and visual amenity; and other issues.

#### Principle of residential development

69. This scheme proposes housing development on previously developed land that is located outside of the existing settlement boundary for either Easington or Peterlee. Sites located outside of boundaries are treated against 'countryside' policies and objectives, and there is a general presumption against allowing development beyond a settlement boundary in line with Policy 3 of the local plan. Policy 3 creates a presumption against development outside of settlement boundaries unless allowed by other policies in the local plan. There are no other policies in the local plan which provides support for this development in principle. Policy P6 of the local plan specifically allocates the site for business, leisure or recreation uses. Consequently, in strict planning policy terms the development of the site for housing would be in conflict with the local plan.

70. As a consequence of the conflict with the local plan there would need to be other 'material considerations' to justify a departure from that policy. In this respect the NPPF is far less restrictive than the local plan, as Policy 67 of the local plan specifies that only previously developed land can come forward for housing development on sites which are located within defined settlement boundaries. A key material consideration in determining this application should be the NPPF. A strategic policy objective of the NPPF is to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs. Local planning authorities are expected to boost significantly the supply of housing, consider housing applications in the context of the presumption in favour of sustainable development, and create sustainable, inclusive mixed communities in all areas both urban and rural. Housing should be in locations which offer a range of community facilities with good access to jobs, key services and infrastructure. The provision of affordable housing where a need has been identified is encouraged through the NPPF, and a range of dwelling types and sizes, including affordable housing and alternative forms of tenure to meet the needs of all sectors of the community should be provided.

71. The application conflicts with the existing local plan however the strategy and approach of the local plan is no longer wholly consistent with the aims of the NPPF. The development is considered to accord with policies 15 and 35 of the emerging CDP, but given objections has been received on these policies through the most recent consultation it is considered that little weight can be afforded to these emerging policies. The site is located between Easington and Peterlee which are main urban centres which have a wide range of shops, facilities and services. The proposed scheme for 900 houses also includes the development of a local retail centre. It is therefore considered that the site in this application would be within a sustainable location situated between Easington and Peterlee. The developer of this scheme would also be required to make financial contributions towards the upgrade and enhancements of local sports and recreational areas. The developer would also be required to contribute towards the local housing need by providing the 10% affordable housing requirement through this development.

72. Another material consideration in the determination of this application is the recently approved application for 900 houses on the site known as Lowhills. This permission grants outline development for 900 houses which would wrap around the site in this application to the south, east and west boundaries. The application site sits within this 900 house scheme and from a physical perspective it would be logical to develop the site so this area would appear as a fully comprehensive housing site.
73. Whilst it is accepted that this proposal would not strictly accord with local plan policies, it is recognised that the proposed development would be in line with the sustainable aims of the NPPF, as well as policies 15 and 35 of the emerging CDP. On balance, given the current status of the local plan policies, it is considered that the key policy consideration for this application should be against the criteria detailed in the NPPF. Therefore in this instance it is considered that the proposed development would be acceptable in principle and in accordance with the sustainable principles of the NPPF.

#### Highway and access issues

74. This application has been made in outline with all matters to be reserved for future consideration. That being said, the applicant has submitted an illustrative masterplan for the site which shows the access taken from the north direct onto Andrews Lane. The County Highways Officer has been consulted on the application and no objections are raised to the proposal. Improvements to the access onto Andrews Lane would be required along with pedestrian links into the 900 houses residential scheme to improve pedestrian connectivity however this can be sought through a reserved matters application. Overall the surrounding highway network can accommodate the proposed development and highway safety would not be compromised. The proposal is therefore considered to be in accordance with 36 and 37 of the local plan.
75. Some residents have indicated that Andrews Lane, from which the site is likely to be accessed from, is used as a lay by where vehicles park. It is noted Andrews Lane is not a formal lay by. It is not considered that the proposed development would have an adverse impact on Andrews Lane in terms of highway safety.

#### Affordable housing and section 106 contributions

76. The NPPF states that, in order to ensure a wide choice of high-quality homes, Local Planning Authorities should “plan for a mix of housing”, “identify the size, type and tenure of housing that is required in particular locations”, and “where affordable housing is needed, set policies for meeting this need on site”.
77. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2012 and supplies the evidence base for 10% affordable housing across the East Durham Delivery Area (on sites of 15 or more dwellings/0.5 hectares or greater), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets. The SHMA and the NPPF therefore provide the justification for seeking affordable housing provision on this site, which should be secured via S106 agreement. A requirement of 10% of the dwellings on this site would need to be affordable homes and this requirement is proposed to be secured through a section 106 legal agreement.

78. Policy 90 of the local plan as well evidence within the Council's Open Space Needs Assessment (OSNA) requires new housing development to contribute to the provision and enhancement of outdoor sports facilities. In this instance a developer contribution can be made towards the enhancement and upgrade of recreational facilities in the locality. The amount of these contributions would be determined pro-rata on the final number of dwellings approved, but would equate to £500 per unit. This contribution would help to support and improve facilities within the surrounding locality for the benefits of the additional properties and also existing residents of the local community.

## Ecology

79. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have 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 an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.

80. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

81. Although the site used to contain the Thorpe Maternity Hospital, the buildings associated with the site have now been demolished and the site has become overgrown with plants and shrubbery. There are also a number of mature trees located on the site. There could be the potential for protected species to be present on the site and disturbed by the development. The applicant has submitted an ecology survey with the application. The Council's Ecology Officer has been consulted on the ecology survey and no objections have been raised as the survey indicates a low impact risk on protected species. Given this, there is no requirement to obtain a licence from Natural England and therefore the granting of planning permission would not constitute a breach of the Conservation of Habitats and Species Regulations 2010.

82. Notwithstanding the above, a condition will be required which would ensure care is taken during construction in accordance with the recommendations in the submitted ecology survey. Subject to this mitigation, it is considered that the proposals would be in accordance with saved policy 18 of the local plan and part 11 of the NPPF.

83. In order to take pressure from additional visitors away from the coastal designations of significant importance, sufficient and appropriate green space needs to be provided in association with the proposed development. The applicant has submitted a habitats regulation assessment which indicates that 30% of the site is to be retained as open green space. There are also public rights of way near the application site which also provides links to other green spaces within the near locality. The habitats assessment concludes that with the provision of open green space on site and links to the wider countryside will provide appropriate and proportionate recreational facilities for dog walkers. The Council Ecology Officer is satisfied that the open space incorporated into the scheme and the links to nearby green spaces would protect the coastal designation.

84. As such, it is considered that the proposed development would be in accordance with saved policies 14, 15, 16, 18 and 19 of the local plan and part 11 of the NPPF, both of which seek to protect and enhance biodiversity and the natural environment.

## Archaeology

85. The applicant has submitted a Phase 1 Geo-Environmental Desk Study Assessment and a Heritage Statement with the application. These initial assessments provide sufficient details with regards to issues associated with archaeology at the site. Whilst these assessments indicate that the development is not expected to disturb any archaeology on the site, further investigation works are proposed to ensure that any archaeological interests are protected. The County Archaeologist has been consulted on the proposals and no objections are raised providing conditions are imposed requiring further investigation works. Conditions are recommended accordingly.
86. Local residents have raised objections to the development indicating that in connection with the former maternity hospital there are baby burials on the site. No formal records can be found in terms of these burials being authorised graves, and there is no formal record as to if and where these burials are situated on the site. It is acknowledged that this is a sensitive matter, however whether or not there are human burials on the site, this issue is not specifically a material planning consideration which could be substantiated as a reason to refuse planning permission. If burials were discovered on the site then the emphasis would be on the applicant to ensure the correct authorisation is sought in order to gain permission to remove any bodies from the site.

## Layout, design and visual amenity

87. The application has been made in outline with all matters reserved for future consideration. However an illustrative master plan has been submitted showing certain site development parameters.
88. Information provided in the submitted design and access statement as well as the indicative master plan indicates that a mix of house types would be available on site including 2, 3 and 4 bedroom properties of detached and semi-detached design. The housing layout would generally reflect the previous arrangement of Thorpe Hospital. The same access arrangement is to be utilised with the existing mature trees (protected by TPO's) on site to be retained and incorporated into the housing scheme. In terms of the sites relationship with the adjacent housing scheme for 900 houses, the proposed scheme respects the layout. Adequate separation distances can be achieved to ensure that sufficient levels of amenity would be retained for future residents of the properties.
89. It has previously been noted that this site does sit within the centre of the housing scheme for 900 houses (which has planning permission). If these 900 houses do get built then it is considered that the proposed housing in this application would be absorbed into the overall housing of the 900 house scheme. The proposals in this application do need to be assessed in isolation however as there is the possibility that the scheme in this application could be developed before the 900 house scheme is developed. There are concerns from local residents that the proposed scheme would adversely impact on the green wedge between Easington and Peterlee and that public amenity area would be lost as a result of the development. Although the site may presently be used by local residents as an amenity area, it is noted that land is in private ownership and is not a formal amenity area. In landscape terms, it is not considered that this site would result in the loss of the green wedge between

Easington and Peterlee, as this is only a small parcel of land. There have been no objections from landscape officers and it is considered that the proposed development would not have an adverse impact on the visual appearance of the area or the surrounding landscape.

90. The proposed site parameters shown on the illustrative master plan and the details provided within the design and access statement indicate that a high quality residential scheme could be provided on the site and successfully integrated within the local area. The proposals are considered to be in accordance with policy 1, 35, 36 and 37 of the local plan.

#### Other issues

91. The Council's Drainage Officer, the Environment Agency and Northumbrian Water have been consulted on the proposed application. No objections have been raised providing the development is constructed in accordance with the details of the submitted Flood Risk Assessment. It is therefore considered that the proposal would not have an adverse impact in terms of drainage or flooding.
92. Easington and Peterlee Parish Councils and local residents have raised some concerns that there is a lack of school places in the nearby schools. It is noted that there is to be significant investment in local schools through the planning permission for 900 houses. This site however is for 50 houses and it is not considered that there is any planning policy requirement for school investment on this particular development.
93. The County's Environmental Health Team has been consulted on the application and they have raised no objections in terms of noise, air quality or contaminated land. A condition is requested for a desk study of the site to be undertaken prior to development commencing. A condition is recommended accordingly.
94. The Council's Sustainability Team has not raised any objections and has welcomed the applicant's commitment to 10% improvement in carbon emissions on the site. A condition is recommended to ensure 10% carbon emission improvements is secured through the proposed development.

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## **CONCLUSION**

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95. The proposal would not strictly accord with local plan policies, however the proposed development would be in line with the sustainable aims of the NPPF. It is considered in this instance the key policy consideration for this application should be against the criteria detailed in the NPPF, therefore the proposed development would be acceptable in principle and in accordance with the sustainable principles of the NPPF.
96. The Highways Authority has not raised any objections to the proposed development. Access is reserved for future consideration however it is likely that access will be taken from Andrews Lane. Andrews Lane can accommodate additional traffic from this proposed scheme. Highway safety would not be compromised as a result of the proposed development.
97. The proposed development would deliver the full amount of affordable housing (10%) on the site. Although no house types are to be agreed in this outline application, it has been demonstrated through illustrative plans that a mixed development could be provided including 2-4 bedroom properties. Developer

contributions would also be made towards the enhancement and upgrade of recreational facilities in the locality, which would benefit the local community. These would be secured through a proposed Section 106 Agreement.

98. A detailed ecology survey has been submitted with the application and this survey has found that no protected species would be adversely affected by the proposed development, ecology officers concur with the conclusions. In order to take pressure from additional visitors away from the coastal designations of significant importance, open green space is to be retained on site. There is also good public footpath links in the locality connecting to the wider countryside which will also aid in the protection of the coastal designation. As such, it is considered that the proposed development would be in accordance with saved policies 14, 15, 16, 18 and 19 of the local plan and part 11 of the NPPF, both of which seek to protect and enhance biodiversity and the natural environment.
99. The proposal is not considered to adversely impact on archaeology and the County Archaeologist has raised no objections subject to further investigation works which can be secured through a planning condition. Concerns have been raised from residents that due to the previous use of the site as a maternity hospital that there are baby burials on the site. No formal records have been found to confirm these burials. Should any burials be found on the site, the responsibility would be on the applicant to obtain any necessary permission to remove bodies. The possibility of burials being on site is not a material planning consideration and could not be substantiated as a reason to refuse planning permission.
100. Although this is an outline application with all matters reserved, it is considered that the parameters set out on the submitted master plan does provide sufficient confidence that a high quality layout, design and landscaping framework can be provided and appropriately accommodated in amenity terms. The mature protected trees on the site would be retained and it is considered that the development would not have an adverse impact within the surrounding landscape.

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## **RECOMMENDATION**

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That Members **APPROVE** the application subject to the completion of a Section 106 Legal Agreement to secure the provision of affordable housing; and a financial contribution towards play and recreational facilities in the locality at a pro-rata rate of £500 per residential unit; and subject to the following conditions;

1. Approval of the details of access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") for the development shall be obtained from the local planning authority before the development is commenced. Approval of the reserved matters for the development thereafter shall be obtained from the local planning authority before development is commenced.

*Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.*

2. Application for approval of reserved matters for the development must be made not later than the expiration of three years beginning with the date of this permission, and the development must be begun not later than the expiration of two years from the first approval of the reserved matters.

*Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.*

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

<b>Description</b>	<b>Date Received</b>
OS Plan	13/09/2013

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

4. Prior to the commencement of the development a scheme to minimise energy consumption arising from the occupation/operation of the development shall be submitted to and approved in writing by the local planning authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficiency measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation.

*Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Policies 1 and 35 of the Easington District Local Plan and Part 10 of the NPPF.*

5. The development hereby approved shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Wardell Armstrong, dated April 2014 and the following mitigation measures detailed within the FRA:

- Limiting the surface water run-off generated by the site to a maximum of 10.5 l/s as indicated at 6.1.5 in the FRA so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

6. No development shall take place until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

*Reason: To prevent the increased risk of flooding from any sources and in accordance with saved Policy 1 of the Easington District Local Plan and part 10 of the NPPF.*

7. No development shall take place until a site investigation and Desk top Study has been carried out in accordance with Part IIA of The Environmental Protection Act 1990. The results of the site investigation shall be submitted and approved in writing by the local planning authority.

As a minimum requirement, the Desk Top Study should include the following information in relation to the study site:

- Historic Land Use
- Former contaminative site uses
- Typical contaminants from former industrial uses
- Watercourses, major underground aquifers, water source protection zones, at or close to the site



- Ground water, perched ground water
- Adjacent land uses and their historical land use, and potential to affect the study site
- All former holes in the ground on or close to the study site

If the desk top study determines there is no historical land use which may cause contamination of the site, no further action is required in relation to the contaminated land risk assessment.

If any historical land use which may cause contamination of the site is found from the desk top study site investigation, a 'Phase 2 Report' will be required as detailed below.

#### Phase 2 Report

A further report shall be submitted to and approved in writing by the local planning authority. This report shall take into consideration the relevant aspects of the desk top study and discuss remediation measures in accordance with appropriate legislative guidance notes.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority

#### Phase 3 – Validation Report

After remediation measures are implemented at the site, a final validation statement shall be submitted in accordance with the remediation recommendations of the above 'Phase 2' report.

*Reason: To ensure that the application site is safe for the approved development, as required by paragraph 121 of the National Planning Policy Framework and in accordance with saved Policy 1 of the Easington District Local Plan and part 11 of the NPPF.*

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy as outlined in the document 'The Former Thorpe Maternity Hospital Site: Historic Environment Desk-based Assessment, PCA, 2014. The mitigation strategy shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in full accordance with the approved details.

*Reason: To comply with paragraph 128 and 141 of the NPPF because the site has archaeological interest.*

9. Prior to the occupation of the first dwelling a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

*Reason: To comply with paragraph 141 of the NPPF, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.*

10. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion die, are removed or become seriously

damaged or diseased shall be replaced in the next planting season with others of similar size and species.

*Reason: In the interests of the appearance of the area and to comply with policy 35 of the District of Easington Local Plan.*

11. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Bat Survey Report prepared by Dendra Consulting Ltd dated 15<sup>th</sup> July 2014.

*Reason: To conserve protected species and their habitat in accordance with the objectives of saved Policy 18 of the Easington District Local Plan and part 11 of the NPPF.*

12. Notwithstanding the details submitted, this permission relates to a maximum of 50 dwellings on the site.

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with part 7 of the National Planning Policy Framework and saved Policies 1 and 35 of the District of Easington Plan.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans.
- Design and Access Statement
- Environmental Statement
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



**Planning Services**

**Proposed Residential Development (Outline) at Land at Former Thorpe Maternity Hospital, Andrews Lane, Easington Ref: CE/13/01014/OUT**

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**Date 11<sup>th</sup> November 2014**

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/14/01418/FPA</b>
<b>FULL APPLICATION DESCRIPTION</b>	<b>Outline planning permission for the remodelling of the building including the erection of ground, first, second and Mansard roof third floor extensions with layout and landscaping reserved and full planning permission for change of use to student accommodation.</b>
<b>NAME OF APPLICANT</b>	<b>Mrs B Murphy, Kingslodge Hotel</b>
<b>SITE ADDRESS</b>	<b>Kingslodge Hotel, Waddington Street, Durham, DH1 4BG</b>
<b>ELECTORAL DIVISION</b>	<b>Nevilles Cross</b>
<b>CASE OFFICER</b>	<b>Barry Gavillet 03000261958 dmcentraleast@durham.gov.uk</b>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. This application site is located within the Electoral Division of Nevilles Cross. It is also within the Durham City Conservation Area as defined in the City of Durham Local Plan. The building which is the subject of the planning application, Kingslodge Hotel, is located in the Crossgate Moor area of the City, northwest of the main shopping centre and the A690. It is outside the City Centre boundary but lies within the settlement boundary.
2. The site is located between the site of the former Arriva bus depot to the west which has planning approval for 19 dwellings and the Former County Hospital to the east, north of the junction of Waddington Street and Ainsley Street.
3. To the north is Flass Vale, which is within the Durham City Green Belt, an area of high landscape value and a County wildlife site. Further to the south west of the site is the former Fred Henderson Garage which has planning permission for 223 student apartments and is currently under construction.
4. The Hotel's existing car park can accommodate 33 cars and wraps around the Hotel to the northwest, north and east. Immediately east of the Hotel is a public footpath,

separating it from the County Hospital and running northeast from the junction of Waddington Street and Ainsley Street.

5. The Hotel has two storeys and is simple in appearance yet incorporates a complex slate hipped and pitched roof with a central flat valley, significant overhangs and black rainwater goods. The Hotel has 21 en-suite bedrooms and a restaurant which together employ 13 full time staff and 33 part time/casual staff. An extension to the hotel has recently been approved at appeal which would involve an identical extension as is currently proposed and would have 50 bedrooms, this is an extant permission.

## **The Proposal**

6. This application is a 'hybrid' application which seeks both outline planning permission for the remodelling of the building including the erection of ground, first, second and Mansard roof third floor extensions with layout and landscaping reserved and full planning permission for change of use to student accommodation which would provide bed spaces for 57 students. The hotel extensions would be the same scale, layout and design as the previous application which was allowed at appeal; however this application did not include the change of use to student accommodation as this current application does.
7. It is proposed to reduce the current level of parking provision from 31 spaces to 25 but it is proposed to create 16 cycle spaces.
8. This application is being referred to Committee as it is a major application.

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## **PLANNING HISTORY**

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9. Erection of single storey extension to north elevation of existing restaurant (4/09/00162/FPA). Approved.
10. Erection of ground, first, second and mansard roof third floor extension to provide an extended residents lounge, additional toilet facilities, a lobby, office and reception extension, a new staircase and 29 additional bedrooms (4/11/00583/FPA). Approved at appeal (APP/X1355/A/12/2174359).

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

11. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
12. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'

The following elements are considered relevant to this proposal;

13. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
14. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
16. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible, Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
18. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
19. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
20. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of

the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

*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/nppf>

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

21. *Policy C9 – (Loss of an existing Community Facility)* states that planning permission for the development of a proposal which would result in the loss of an existing community facility will not be granted unless it can be demonstrated that the facility is no longer financially viable, there is no significant demand for the facility within that locality or an equivalent alternative facility is available to satisfy the needs of the local community nearby.
22. *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.
23. *Policy E21 - (Conservation and Enhancement of the Historic Environment)* requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
24. *Policy E22 - (Conservation Areas)* seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
25. *Policy H9 – (Multiple Occupation/Student Households)* – The sub-division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use will be permitted provided that sufficient parking is provided, there are no adverse impacts on residential amenity, it is in scale and character with its surroundings, it would not result in concentrations of sub-divided dwellings to the detriment of the local housing stock and it would not be out of character with the original building.
26. *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.
27. *Policy H16 – (Residential Institutions and Student Halls of Residence)* provides for purpose-built accommodation provided that they are well related to local facilities and are not likely to impact adversely on adjacent development or lead to community imbalance.



28. *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.
29. *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.
30. *Policy T20 – (Cycle Facilities)* seeks to encourage appropriately located, secure parking provision for cyclists
31. *Policies Q1 and Q2 – (General Principles Designing for People and Accessibility)* states that the layout and design of all new development should take into account the requirements of all users.
32. *Policy Q3 – (External Parking Areas)* requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed areas of surface, street and rooftop parking are not considered appropriate.
33. *Policy Q5 – (Landscaping General Provision)* sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
34. *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.
35. *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>

## **EMERGING POLICY:**

36. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:

37. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
38. *Policy 18 (Local Amenity)* – In order to protect the amenity of people living and/or working in the vicinity of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity such as by way of noise, vibration, odour, dust, fumes, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.
39. *Policy 32 (Houses in multiple occupation and student accommodation)* – In order to support mixed and balanced communities and maintain an appropriate housing mix, houses in multiple occupation and student accommodation will not be permitted where the site is located within 50m of a postcode area where more than 10% of the total number of properties are already in use as licenced HMO's or student accommodation. Proposals should have adequate parking, refuse and other shared facilities and the design of the building should be appropriate to the character of the area.
40. *Policy 41 (Biodiversity and Geodiversity)* – States that proposals for new development will not be permitted if significant harm to biodiversity and geodiversity, resulting from the development, cannot be avoided, or adequately mitigated, or as a last resort, compensated for.
41. *Policy 44 (Historic Environment)* – Development will be required to conserve the fabric, character, setting and cultural significance of designated and non-designated heritage assets and to seek opportunities to enhance structures and areas of significance throughout County Durham. Developments that promote the educational, recreational, tourism or economic potential of heritage assets through appropriate development, sensitive management, enhancement and interpretation will be permitted.
42. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

43. The Environment Agency do not object to the proposals.
44. Northumbrian Water have no concerns regarding the proposals.

### **INTERNAL CONSULTEE RESPONSES:**

45. Environmental Health Officers have no objections to the proposals but have requested that should planning permission be granted, a management plan should

be submitted which provides details of noise management in order to ensure that noise from student activity does not adversely impact on nearby residents. Contaminated land officers have no concerns regarding the proposals.

46. Design and Conservation Officers have no objections to the proposals as the layout, scale and design reflects that which was previously approved at appeal.
47. Landscape Officers do not object to the proposals but request landscaping conditions should planning permission be granted.
48. The Councils Ecologist has objected to the proposals on the basis that the site is in an area where there is a high population of bats and is in close proximity to Flass Vale Local Wildlife Site. No bat survey has been submitted and therefore there is insufficient information regarding the impact on a European Protected Species.
49. The Councils Spatial Policy team have raised concerns regarding loss of employment, the impact on the tourism offer in the city, concentration levels of students in the area and lack of a management plan.
50. Archaeology Officers have no objections subject to conditions requiring building recording and subsequent reporting and publication.
51. Public Rights of Way Officers have no objection to the application but require a condition which ensures the car parking layout is such that it does not obstruct the public right of way.
52. The Tree Officer has no objections subject to a condition requiring tree protection during construction.

#### **PUBLIC RESPONSES:**

53. The application has been advertised by way of a site notice, press notice and letters to individual residents. 60 letters of objection have been received including letters from local members, Crossgate Community Partnership, the City of Durham Trust, the MP and Gentoo who are developing the former Arriva bus depot which is nearby. In addition to this, a petition has been received which includes the names of 740 objectors.
54. It is clear from the numbers of objections to this proposal that there is strong opposition to the application from the local community. The main reason for concern is that there is a high concentration of students in the area which has created an imbalanced community and that the proposals are contrary to saved local plan policy and the NPPF. Objectors feel that there is no need for further student developments in this area. This reason for objection is highlighted by Gentoo who are carrying out the residential development nearby at the former Arriva bus depot.
55. In addition to the above there are concerns regarding the loss of the hotel and restaurant as objectors feel that it is an important community facility. It is noted that there is a need for further visitor accommodation in the city and so the loss of the hotel and restaurant would exacerbate this problem and would lead to a significant loss of employment. Other concerns include the loss of residential amenity due to noise and disturbance from student activity and the lack of parking provision being proposed.

## APPLICANTS STATEMENT:

56. Planning permission reference 4/11/00583/FPA was granted at appeal for the extensive remodelling of the hotel. These proposals replicate the external envelope of that approval. Accordingly, the Planning Inspectorate has already established that the principle of the scale and design of these proposals as acceptable. However, officers are to recommend refusal of my application because of the loss of a community facility and employment. I have addressed the absence of an up-to-date bat survey. Any loss of employment will be supplanted, albeit in different forms, by that pertaining to the maintenance and management of the student accommodation. Additionally, the long-term economic benefits that students bring should not be underestimated and will likely be greater than those attributable to short-term staying visitors of the hotel. I appreciate that there is a demand for new hotels but recent increased competition is putting significant pressure on Kingslodge. Furthermore, if there is a demand for more hotel accommodation the market will ultimately supply it. Policy C9 of the local plan permits development that would result in the loss of a community facility identified in policy C2 and C8 subject to a number of caveats. A hotel is not defined as a community facility in either policy and there are alternative facilities to satisfy the local community. There is no policy basis for the refusal of this proposal on the grounds of the loss of the hotel and its ancillary services. Policy H9 of the local plan concerns the sub-division or conversion of houses for flats, bedsits or for multiple occupation and is not relevant to these proposals. Therefore, there is no policy support for the refusal of my proposals on the basis that it would be to the detriment of the range and variety of local housing stock. Policy H16 concerns the provision of new or extensions to existing hostels, residential institutions and care homes. As the student accommodation is not classed as such this policy, too, is not relevant to these proposals. Accordingly, there is no policy objection that the proposal would lead to a concentration of student accommodation. Residential amenity can be preserved through an accommodation management plan secured as a condition of planning permission together with other controls of the University, the Council and the Police. The proposal is not contrary to Policy H13. The Council cannot pick and choose when these policies are applied. Either they apply or they do not. I would strongly challenge any assertion that they should be applied in this instance. The Council did not refuse planning application CE/13/01696/FPA for development of the adjacent County Hospital site for student accommodation because of there being a concentration of student accommodation in the area. If Area Policy Team comments pertaining to the concentration of student accommodation were to translate to a reason for refusal, this would show an inconsistency in the way in which the Council is handling such proposals and that could be reason to make an application for the award of costs at appeal. The Council have based Policy 32 upon the methodology of the National HMO Lobby. It defines the tipping point as having been reached if the proportion of HMOs households is more than an arbitrary 10%. However, the Council cannot apply this methodology to Durham as it has. Its mathematics is flawed. In 2011, the student population, or norm, for the built up area of Durham, was at 31%. The model tells us that Durham has a much higher student population than the guideline norms. If the model were strictly followed, the City cannot accommodate its student population. This would have severe consequences for the University, City and students. Provision of well-managed student accommodation is not the sole remit of the University. The private sector can provide a comparable standard. I would not hope to obtain the University's backing when it has attempted to have this and other student accommodation proposals called into the Secretary of State. For obvious reasons,

this attempt will fail. I am in no doubt, objectors will put significant emphasis on their belief that there is not a demand for student accommodation, and while I can demonstrate that there is, the merit of this proposal is not dependant on whether or not there is such a need. These proposals accord with the development plan and NPPF policy and in accordance with paragraph 14 of the NPPF, I respectfully request that the Committee approve my application.

*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:*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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57. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, impact upon the character and appearance of the conservation area, impacts on residential amenity, community facilities and economic impact, highways issues and ecology.

### **The Principle of the Development**

58. The application proposes a significant extension to the existing hotel which would involve two additional storeys representing a 98% increase in the size of the building. These extensions reflect the proposals which were approved by the Planning Inspectorate at appeal in 2012 and it is not considered circumstances have changed since that decision. Therefore the principle of the extension to the hotel is accepted.
59. The NPPF has a presumption in favour of sustainable development and specifically states that residential developments should be guided toward sustainable locations where there are good links to public transport, community facilities, shops, healthcare and education.
60. In terms of the change of use to student accommodation it is considered that a residential use in this location would be sustainable given that it is close to the city centre and is in close proximity to the university campus, public transport links and community facilities. Therefore both the extensions to the hotel and the change of use to student accommodation are acceptable in principle. However, there are issues relating to the impacts of the Conservation Area, residential amenity, community facilities and economic impact, highways issues and ecology which must also be satisfied before a positive recommendation could be made.

### **Impacts upon the Character and Appearance of the Conservation Area**

61. The application site lies within the Durham City Centre Conservation Area. The Local Planning Authority has a statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. Policies E6 and E22 of the Local Plan provide guidance with regards to development proposals within the Durham City Centre Conservation Area and this requirement to preserve or enhance the character of the Conservation Area is reiterated within these policies.

62. The Council's Design and Conservation Officers have no objection to the principles of this development which has the same scale, layout and design and the proposal which was previously approved by the Planning Inspectorate. The inspector concluded that the proposed development would not have any significant adverse impact on the Conservation Area nor would it have any physical adverse impacts on nearby residents.
63. The proposals are therefore considered to accord with saved policies E21 and E22 of the Durham City Local Plan and part 12 of the NPPF.

### **Impacts upon Residential Amenity**

64. A key issue is the suitability of the site for the development having regards to the impacts upon residential amenity, more broadly regarding the potential for disturbance and noise through a concentration of students.
65. The Local Plan has specific saved policies, H13 and H16, which relate to residential areas and forms of residential institutions and student halls of residence.
66. Policy H13 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.
67. Policy H16 states that planning permission will be granted for such developments provided that they are situated within close proximity to services and public transport links, satisfactory standards of amenity and open space are provided for occupiers, that the development does not detract from the character or appearance of the area or from the amenities of residents and finally with regards to student halls that they either accord with the provisions of Policy C3 or that the proposal would not lead to a concentration of students to the detriment of the amenity of existing residents.
68. Policy C3 of the Local Plan relates to development by the University of Durham, the University are not the applicant on this proposal and therefore this policy is not strictly relevant to this particular application.
69. The issue of the dense concentration of students and impact this may have on the residential amenity of the surrounding area is a material consideration. Policy 32 of the emerging County Durham Plan states that applications for student accommodation will only be permitted where there is sufficient car parking, there are acceptable arrangements for bin storage and shared facilities and the design of the building would be appropriate to the character of the area. The proposals are considered to be in accordance with these criteria. However, there are also criteria which state that proposals within 50 metres of a postcode area where more than 10% of properties are HMO's or student accommodation will not be permitted. Data from 2013 suggests that 66.7% of properties within this postcode area would fall into this category and therefore the proposals would be contrary to policy 32 of the Emerging County Durham Plan. It should be noted however that this policy can be given only limited weight at this stage. However, the criteria can be used to judge whether there is a high concentration of student accommodation in the area that would have an adverse impact on residential amenity and the character of the area, contrary to saved policies H13 and H16 of the local plan.

70. Given the high concentration of students existing in the area it is considered that the proposal would lead to a further imbalance in the community. In addition, no management plan has been submitted which assesses issues such as noise impact and as such the proposal is considered contrary to both Policy H13 and H16.
71. Policy Q8 considers that in order to provide adequate levels of amenity a 13 metre separation distance between main habitable room windows and a blank two storey gable should be provided and 6m to a single storey gable. In order to maintain privacy 21m should remain between main windows serving habitable rooms. In terms of inter-relationships with surrounding development these all meet the requirements of the local plan in terms of facing distances between elevations and windows serving habitable rooms.
72. In conclusion, it is considered that the proposal would increase the concentration of students in the area to above 66.7% as it currently exists and this would lead to both an imbalance in the community and would result in an adverse impact on the character of the area and residential amenity. Therefore the development is considered unacceptable and is in conflict with policies H13 and H16 of the Local Plan.

### **Community Facilities and Economic Impact**

73. Saved Policy C9 of the City of Durham Local Plan states that planning permission for the development of a proposal which would result in the loss of an existing community facility will not be granted unless it can be demonstrated that the facility is no longer financially viable, there is no significant demand for the facility within that locality or an equivalent alternative facility is available to satisfy the needs of the local community nearby. In addition, part 8 of the NPPF which seeks to promote healthy communities specifically states in paragraph 70 that planning decisions should guard against the unnecessary loss of valued facilities and services.
74. The applicant has not submitted any financial justification nor is there any evidence to suggest that an alternative facility in the local community or that there is no significant demand. On the contrary, it is clear that on the basis of the level of objection, including a petition containing 740 signatures, that the hotel and restaurant is seen as an important and valuable community facility. In addition to this, the applicant has confirmed that at present there are 13 full time staff and 33 part time/casual staff employed by the businesses. Should the proposals come forward the numbers of staff would be reduced to 1 full time and 3 part time employees resulting in a significant loss of jobs.
75. On the basis of the above it is considered that the proposals are unacceptable and would conflict with the aims of part 8 of the NPPF and saved Policy C9 of the City of Durham Local Plan.

### **Highways Issues**

76. The proposal includes conversion of the existing building to a 57 bed student accommodation in 10 residential units. The site is located in a sustainable travel location being close to the city's railway and bus stations and within acceptable walking distance of the university establishments and city centre facilities.
77. Current estimates are that 15% of students may own a car in Durham. The council's current standard for car parking for student accommodation within the Controlled

parking zone requires provision for staff and disabled persons only. Restraining onsite parking availability and promoting good sustainable transport choices together with the disincentive to park in the controlled zone will contribute to a sustainable travel environment. As such, there is no requirement to accommodate student parking within development in the Controlled Parking Zone.

78. The level of vehicular parking has been reduced to 25 spaces plus 3 for disabled persons along with parking provision for 16 cycles. The provision of 28 parking spaces would be considered over provision and may result in attracting demand from similar student development in the area if uncontrolled. It is considered that this is over supply and will not contribute towards sustainable travel choices. Applying student car ownership rates to this development would place a requirement for 9 spaces only. The applicant has indicated car parking space on the access road and to the north east of the development from the area in which the accommodation would be serviced. The access road is 6.0m wide and vehicles parking on this road would prevent progress of vehicles entering as a vehicle is leaving the car park, the result of which could be a vehicle needing to reverse into the public highway which would be unacceptable. This, in addition to issues relating to pick up and drop off areas and location of cycle bays would need to be addressed as part of the assessment of the layout at reserved matters stage should this application be approved.
79. Subject to the above issues being resolved at reserved matters stage, and subject to conditions relating to the submission of a travel plan and provision of electric vehicle charging points, Highways Officers have no objections to the proposals and therefore the development is considered to accord with Policy Q1, Q2, T1, T10 and T20 of the Local Plan and Part 4 of the NPPF.

## Ecology

80. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 make it an 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. Accordingly, the Regulations have established a regime for dealing with derogations in the form of a licensing system administered by Natural England.
81. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty to have regard to the requirements of the Regulations/Directive in the exercise of its functions. A Local Planning Authority failing to do so would be in breach of the Regulations. Specifically, where a likely interference to a European Protected Species is identified, the LPA must consider whether a developer might obtain an EPS licence from Natural England, which in turn calls for an application of the derogation tests. The derogation tests are threefold as follows:
- That there is no satisfactory alternative
  - That the population of the species will be maintained at a favourable conservation status in their natural range
  - That there are imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance to the environment
82. The Councils Ecology Officer has stated that the Kingslodge Hotel is located in an area known to contain a high population of bats yet no bat survey has been provided



with the application as to the status of bats on the site. This proposal involves considerable works to the building and European Protected Species are a material planning consideration and therefore an objection is raised on the basis of insufficient information. The proposal is also directly adjacent the Flass Vale Local Wildlife Site (LWS) and an increase in student numbers in such close vicinity may have a detrimental impact on the condition of the LWS. No information is provided on how the developer will mitigate for this.

83. On the basis of the above it is not considered that the Local Planning Authority can discharge its duty to have regard to the requirements of the Habitat Regulations due to the lack of information provided and therefore the proposals are not considered to accord with saved policy E16 of the Local Plan and paragraphs 117 and 118 of the National Planning Policy Framework.

## CONCLUSION

84. This application proposes the extension and change of use of the Kingslodge Hotel and restaurant for use as student accommodation. Although the site is in a sustainable location for residential development and the principle of extending the building has been accepted by the Planning Inspectorate, other circumstances are considered to render the proposals unacceptable.
85. It is considered that the concentration of students in this particular part of Durham is significant at around 66.7% and on this basis officers consider that the proposals would lead to an adverse impact on the character of the area and residential amenity in addition to creating an imbalanced community. It is also considered that given the level of public objection that the community considers the hotel and restaurant with the applicant providing no evidence to suggest that the business is no longer viable or the facility is no longer needed; the proposals would also result in a significant loss of jobs. Finally it is not considered that sufficient information has been provided in terms of the impact on European Protected Species and therefore the Local Planning Authority is unable to discharge its duty to have regard to the requirements of the Habitat Regulations.

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## RECOMMENDATION

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

1. The proposals would lead to the loss of a community facility with no evidence submitted to suggest the facility is no longer financially viable, contrary to saved policy C9 of the City of Durham Local Plan and paragraph 70 of the National Planning Policy Framework.
2. The proposals would lead to a concentration of student accommodation in the vicinity such that it would harm the character of the area and adversely detract from the amenities of existing residents, contrary to saved policies H13 and H16 of the City of Durham Local Plan.
3. No bat survey has been submitted and therefore there is insufficient information to determine the impact on protected species, contrary to saved policy E16 of the Local Plan and paragraphs 117 and 118 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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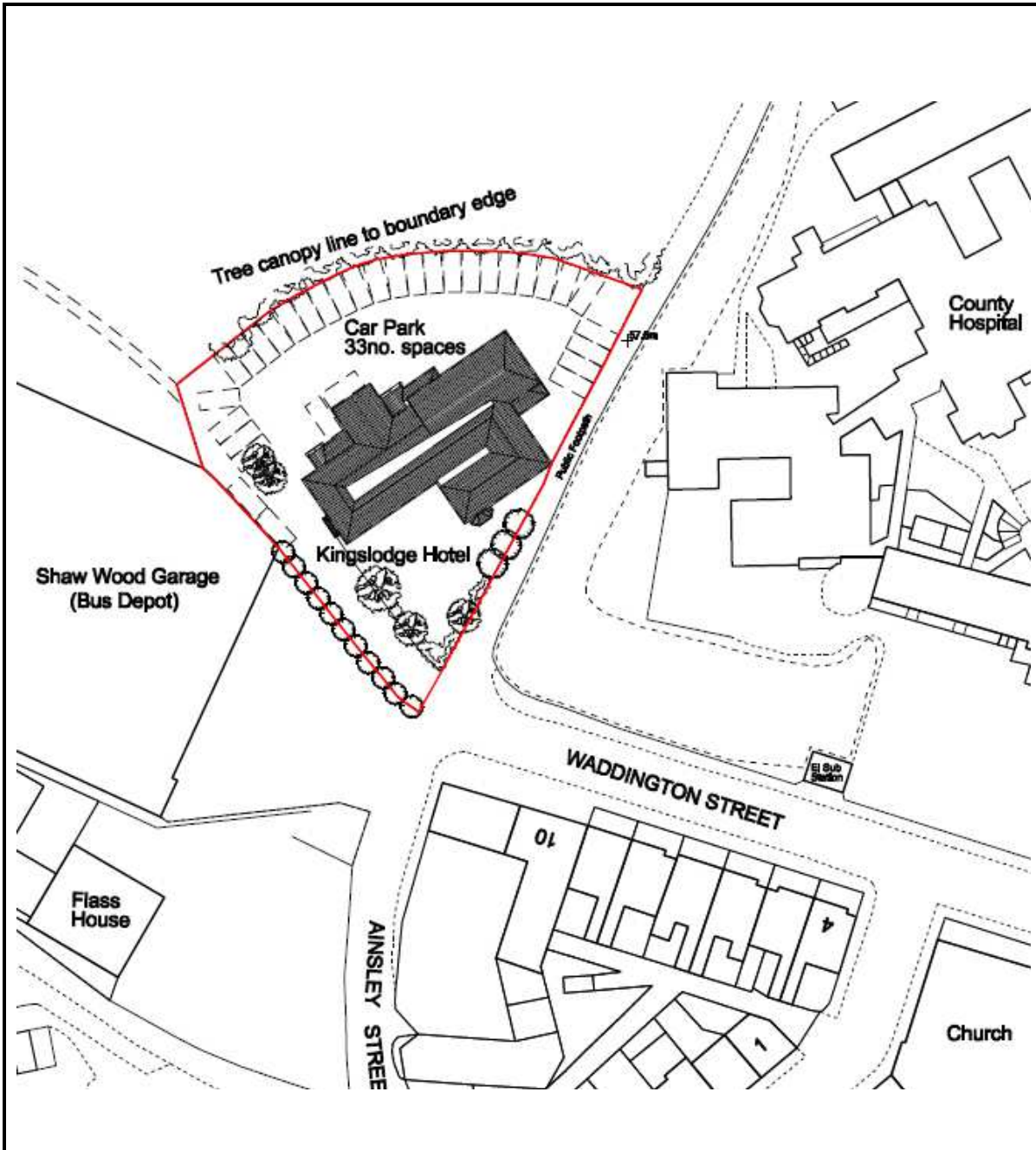
In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner in an attempt to seek solutions to problems arising during the application process. The decision has been made in compliance with the requirements of the National Planning Policy Framework to promote the delivery of sustainable development.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documentation  
City of Durham Local Plan 2004  
County Durham Plan Submission Draft  
National Planning Policy Framework  
Internal consultee responses  
Public responses  
External consultee responses



**Planning Services**

Outline planning permission for the erection of ground, first, second and Mansard roof third floor extensions with layout and landscaping reserved and full planning permission for change of use to student accommodation.

Kingslodge Hotel, Waddington Street, Durham

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**Date** November

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/14/00573/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of 89 dwellings
<b>NAME OF APPLICANT:</b>	Dere Street Homes
<b>ADDRESS:</b>	Land to the west of Deerness Heights, Brandon, Durham
<b>ELECTORAL DIVISION:</b>	Brandon
<b>CASE OFFICER:</b>	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. This application site is approximately 2.70 hectares in size and lies outside of the settlement boundary of Brandon but within the Brandon Conservation Area. The area currently consists of open grassland enclosed by mature and semi-mature trees and hedgerows. A Public Right of Way runs through the centre of the site from east to west.
2. The site forms part of the larger landscaping contractors' holding known as Brambledown. The area sits between the contractor's storage buildings to the west, the existing housing to Deerness Heights to the east, existing housing to the south of Brandon Lane and grazing land to the north. The site is rectangular in shape and slopes to the east following the general fall of the land down towards Brandon Village, the site has a tree belt frontage onto Brandon Lane to the south.

#### The Proposal

3. This application proposes the construction of 89 dwellings which would be made up of 35 two bedroomed, 37 three bedroomed and 17 four bedroomed dwellings made up of terraced, semi-detached and detached properties resulting in a density of 32.9 dwellings per hectare, reflecting the Deerness Heights development to the east. Parking provision would be provided on site in the form of 175 off-street parking spaces. The development would be served by a single access off Brandon lane which runs along the southern boundary of the site.

4. All dwellings would have front and rear gardens and would be laid out to create a grid
5. system/perimeter block layout with all dwellings facing inwards towards the road. The development would have a tree lined public footpath running through the site from east to west which would link up the existing Public Right of Way. The development would be mostly made up of two storey dwellings although there would be some two and a half storey, some split level three storey dwellings taking advantage of the sloping site and some three storey dwellings.
6. The dwellings would be constructed in traditional style using various facing bricks and roof tiles and would incorporate various roof styles. A variety of features would be used to add interest to the design such as stone heads and cills to windows, feature garage doors and doorways. Various paving materials would be used throughout the site for shared surfacing along with tree, hedge and shrub planting which would be subject to a landscaping condition.
7. This application is being referred to Committee as it relates to a major residential development.

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## **PLANNING HISTORY**

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8. None relevant.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'
11. The following elements are considered relevant to this proposal;
12. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
13. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the

needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.

15. *NPPF Part 7 – Requiring Good Design*. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change*. Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
17. *NPPF Part 11 – Conserving and Enhancing the Natural Environment*. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
18. *NPPF Part 12 – Conserving and Enhancing the Historic Environment*. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

*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/nppf>*

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

19. *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.
20. *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.

21. *Policy E21 Conservation and Enhancement of the Historic Environment* requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
22. *Policy E22 Conservation Areas* seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
23. *Policy H2 - (New Housing within Durham City)* states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.
24. *Policy H12 - Affordable Housing* seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
25. *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.
26. *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.
27. *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.
28. *Policy R2 - Provision of Open Space – New Residential Development* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
29. *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.
30. *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.

31. *Policy U15 - Energy Conservation – Renewable Resources* permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

#### **EMERGING POLICY:**

32. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
33. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
34. *Policy 15 (Development on unallocated sites)* – States that development on unallocated sites will be permitted on the basis that they are appropriate in scale, design and location to the character and function of the settlement, they do not result in the settlements last community facility, would not prejudice the intended use of adjacent sites and land uses and that they are not in the countryside.
35. *Policy 18 (Local Amenity)* – In order to protect the amenity of people living and/or working in the vicinity of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity such as by way of noise, vibration, odour, dust, fumes, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.
36. *Policy 41 (Biodiversity and Geodiversity)* – States that proposals for new development will not be permitted if significant harm to biodiversity and geodiversity, resulting from the development, cannot be avoided, or adequately mitigated, or as a last resort, compensated for.
37. *Policy 44 (Historic Environment)* - Development will be required to preserve the fabric, character, setting and cultural significance of designated and non-designated heritage assets and seek opportunities to enhance structures and areas of significance throughout County Durham.
38. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

- 39. Natural England has no objections to the proposals but offers informal advice.
- 40. Environment Agency has no objections but has offered informal advice offered relating to surface water drainage.
- 41. Northumbrian Water – No objections subject to a foul sewage condition.

### **INTERNAL CONSULTEE RESPONSES:**

- 42. Planning Policy Officers consider that the scheme should be strongly resisted.
- 43. Housing Delivery – no objections. The applicant proposes 20% affordable housing in line with requirements in the area.
- 44. Ecology Officers – No objections subject to mitigation contained in the ecology report being conditioned.
- 45. Highways Officers have raised objections to the proposals for two reasons. Firstly, the layout of the proposal is unacceptable and would lead to highway safety issues and the development does not make provision for 'non-allocated' parking spaces which does not meet the Councils parking standards. Secondly, it has been noted that the emerging Durham Plan contains a proposal for the Western Relief Road scheme which aims to relieve pressures on the highway network on the west side of Durham city. Officers view is that the submission of this planning application is premature as the traffic impacts will add to an existing unstable network problem on the A690 and A167. It is considered that the impacts could be considered severe in accordance with the test set out in the NPPF. It is proposed to retain the Public Right of Way through the site and in this regards there are no objections.
- 46. Archaeology Officers have raised concerns regarding lack of archaeological information submitted with the application.
- 47. Contaminated land Officers have no objections subject to contaminated land conditions.
- 48. Environmental Health have objections subject to conditions restricting construction hours.
- 49. Landscape Officers object to the proposals stating that the site is of high landscape value within the Conservation Area and forms the remaining undeveloped land between two separate settlements.
- 50. Design and Conservation Officers object to the proposals stating that the development would significantly harm the character of the Conservation Area contrary to saved Local Plan and the NPPF.

## **PUBLIC RESPONSES:**

51. The proposals have been advertised by way of a site notice, press notice and letters to individual residents. 7 letters of objection have been received as a result of the consultation process. The main areas of concern are that the proposals would result in flooding due to the gradient of the site and existing watercourses, there would be a loss of wildlife, the green space is in a conservation area and has a well used public footpath running through it and that the proposals would lead to loss of light due to the topography of the land.

## **APPLICANTS STATEMENT:**

52. It is extremely disappointing that DCC Officers are recommending the refusal of this application. There is a significant business case for the approval of this application which outweighs any minor harm that the development may have. This material consideration is again reiterated below and we would urge members to appreciate the wider positive implications which will arise as a result of approving this application.
53. Brambledown Landscape Services Ltd is an important local employer based in the village of Brandon. It is family owned and operated and for the past 27 years has been in Brandon. The business has come through a very difficult time over the past four to five years as a result of the recession and reduction in public spending. Having built up a strong and successful business with a turnover of £10m-£11m per annum servicing local authority grounds maintenance and landscaping contracts and directly employing more than 100 people, with the cuts made in public sector budgets, it has seen the majority of its client base fall away and has had to re-position itself servicing smaller, lower value private sector work. As a result it has seen its turnover halve, and whilst this has inevitably resulted in job cuts and some redundancies, it still directly employs around 70 people. The directors are looking to re-build the business to its former turnover level, but to do so they recognise that they will need to reinvest in the business. The Applicant provided a detailed financial assessment for officers and Business Durham to consider as part of the planning application. Brambledown's directors and shareholders owns the application site, 2.4 ha site off Brandon lane, formerly used by the business for more than 20 years for growing its own stock. However, changes in their market mean that it is now cheaper to import from Europe than to grow their own stock and as a result the site has lain unused for more than 10 years. Development of this land for residential use will realise a capital receipt for the directors, and although still reasonably modest for the scale of the site, this will give them the ability to reinvest in the business. Such an option, despite discussions with their bank, has been closed to them over the past few years.
54. Conservation Area - DCC concluded that the proposed development would cause significant harm to the character of the Conservation Area. The crux of the issue is that the Council should be able to understand the significance of the Conservation Area through its appraisal (The Conservation Area appraisal has NEVER been carried out). LPA's have a general duty that from time to time they should determine which parts of their area have special architectural and historic interest and formulate and publish proposals for the preservation and enhancement of Conservation Areas. Brandon Conservation Area was designated in 1976. In the 38 years since its designation there has been no published appraisal of the Conservation Area to set as a baseline. Consequently the evidence base for comments which conclude there

would be significant harm are lacking. Our Heritage Consultant assessed the significance of the Conservation Area. Using the methodology set out in that report it was found the most significant element of the Conservation Area to be the historic core of the village, situated around the village green. The subject site was considered to be of **no special interest or significance** in terms of the architectural or historic merit. Using the NPPG which has been published after this application was submitted it was not considered that there is any evidence that the proposal would seriously affect a key element of a designated heritage asset. The topography of the site together with existing and proposed landscaping means that the impact of the development on the setting of the most significant element of the Conservation Area would be negligible and therefore there would be no harm.

55. Landscape - As confirmed within the submitted Landscape report, the site is largely visually enclosed and tightly bordered by housing/ built form to the west, south and east and the existing mature hedgerow/ tree belt forms a strong boundary to the north. Visual impacts will be limited to receptors in close proximity to the site and those further away to the north where the landscape is more open. Views from the north of the site would be viewed in the context of the existing settlement edge. However no views of the proposed development site from Durham Cathedral and Durham Castle (World Heritage Site) can be gained. Views from the surrounding context elsewhere are screened by topography, vegetation and built form. There is no current landscape policy designation for the site (only saved policies adopted in 2007) and the Conservation Policy does not accord with NPPF, therefore the development management policies of NPPF apply (Para 14) - i.e. no adverse impacts which would significantly or demonstrably outweigh the benefits of the proposal. It is felt that only limited weight can be afforded to the emerging landscape policy as a development control tool, as it has not been rigorously tested by an Independent Inspector.

56. In summary there are no defensible reasons for recommending the refusal of this application, the significant material considerations outlined in our business case, supported by Business Durham, should outweigh any minor potential impacts that this proposal may have.

*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://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_detailview.aspx?caseno=M4W1OFBN5B000](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=M4W1OFBN5B000)*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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57. Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision.

58. In this instance, the relevant considerations are the principle of the development, in particular the accordance with the Governments recently published National Planning Policy Framework (NPPF), the emerging County Durham Plan (CDP) and

the saved policies from the City of Durham Local Plan. Other material considerations are the scale, layout and design of the development, impact on the conservation area, highways issues, affordable housing, economic impact and the concerns raised by local residents.

## **Principle of the development**

59. Saved Policy H2 of the City of Durham Local Plan allows for windfall development of previously developed sites within the settlement boundaries, provided that the scheme is appropriate in scale, design, location and number of units. This proposal seeks to redevelop a parcel of land outside of the settlement boundary and is therefore not considered to adhere to this policy.
60. Notwithstanding that the proposals are outside of a settlement boundary in the countryside, the proposal is considered to be sustainable in terms of its location with good access to community facilities such as schools, healthcare provision, shops and public transport links. It is therefore considered that the proposal is in a sustainable location for residential development in terms of access to community facilities in accordance with the principles and overarching aim of the National Planning Policy Framework.
61. The emerging County Durham Plan (CDP) will also aim to direct the majority of new housing to the main towns and secondary settlements of the County in order to create more sustainable places. All development proposals will be assessed against sustainability considerations; relevant considerations listed in the policy include the need to locate development with the aim of reducing the need to travel, to promote sustainable communities by allowing small-scale development to meet local needs and considerations relating to sustainable design.
62. However, being in a sustainable location does not necessarily make a development acceptable, and there are other issues in terms of the location of the development such as the impact on the Conservation Area, landscape impact and highways issues which must also be considered and these are discussed in more detail below.
63. The NPPF requires LPAs to maintain a five-year supply of deliverable sites to ensure choice and competition in the market. The SHLAA report for 2013 concluded that a five-year supply could be demonstrated in County Durham, so there are no deficiencies which need to be addressed by the release of more housing land. However, it is not the intention to resist schemes solely on oversupply grounds, but instead recognise that it enables the LPA to be more selective over which sites it does release, to ensure that the most sustainable and appropriate sites are brought forward for development.
64. The nearby 'East of Brandon Football Club' site is allocated for residential development in the CDP. It is the view of the spatial policy team that there are several sites assessed as green in the SHLAA which are preferable to the proposal site. These include sites 4/BR/01, 09 and 10 in Brandon. These sites are considered to be in more appropriate locations regarding the existing residential framework of the settlement and would not detrimentally impact upon the character or setting of the conservation area.
65. Policy 16 of the CDP states that development on unallocated sites will be permitted provided the development is appropriate in scale, design, and, location, and has regard to the character and function of the settlement and helps to consolidate the

built form of the settlement. This proposal is not considered to accord with this policy for reasons set out later in the report.

66. Overall the proposal is contrary to adopted Local Plan policy as it is outside a defined settlement boundary. The NPPF takes a more positive approach to development but in interpreting this the emerging CDP officers would consider the proposal inappropriate. The proposals would cause harm to the Conservation Area and would have negative highway safety implications (both discussed below), there are other more appropriate development sites in the area, including a housing allocation in the CDP and the Council has evidence of a five year housing land supply. On this basis the principle of the development cannot be accepted.

### **Scale, layout and design of the development**

67. The NPPF's twelve core planning principles states that the planning process should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Good design, the NPPF states, is "indivisible from good planning."
68. Policy H13 of the Local Plan states that planning permission will not be granted for new development that would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. Policies Q1, Q2 and Q8 list design features which will be encouraged within residential areas. In addition, saved Policy Q8 of this plan 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. These policies are reflected in part 7 of the NPPF which also requires good design and the protection of residential amenity.
69. The dwellings would be constructed in traditional style using various facing bricks and roof tiles and would incorporate various roof styles. A variety of features would be used to add interest to the design such as stone heads and cills to windows, feature garage doors and doorways. It is considered that the design of the dwellings is fairly standard and although this would not warrant an objection on the basis of saved policies H13 and Q8 of the local plan it is considered that the design of the proposed dwellings would not preserve or enhance the Brandon Conservation Area and therefore would be contrary to saved policy E22 of the local plan and part 12 of the NPPF.
70. The development is a fairly intensive housing scheme of a grid system/perimeter block layout which picks up the elements and context of Deerness Heights It provides 89 units in total on 2.8 hectares with little open space. The development is fairly urban /suburban in character with little response to the rural setting of the area, the layout and the character pays little credence to the village informal built form and pays more reference to the Deerness Heights urban housing scheme.
71. The development covers the whole site and extends right up to the historic hedgerow boundary to the north and west, sometimes encroaching onto it, there seems to be little softening and reducing in scale of the density up to the boundaries here. The intensity of development will encroach on the character of the historic village and setting and be harmful to the Conservation Area here and the rural character of the distinctive field system and contrary to Policy E22 of the Local Plan and part 12 of

the NPPF. Design and Conservation officers have objected to the proposals on the basis of the above.

### **Impact on the Conservation Area and surrounding landscape**

72. The proposed site is located to the west of Deerness Heights, to the north of Brandon Road and to the south and west of old Brandon Village. It is within Brandon Village Conservation Area which was designated in 1976, the Conservation Area boundary extends to Deerness Heights and Brandon Lane and links into the Brancepeth Conservation Area to the west. Deerness Heights is a large estate which stretches out to the rising farmland to the north. The site at present is rural in character and is undeveloped, it is a field of rough grassland, surrounded by attractive hedgerows and trees, beyond this is Brambledown Landscape depot. The site rises from south to north and east to west and is elevated with extensive views to the north towards Ushaw Moor and the Deerness Valley.
73. This site was originally considered as part of the SHLAA and was not considered suitable for housing development by design and conservation officers as the fields form an integral part of the setting of the village and character of the Conservation Area and are vital in preventing the coalescence of Brandon Village with Brandon.
74. These field patterns remain today and are an important part of the history and development of the village, and are a key component of the character of the Conservation Area. The fields subject to this application were part of the historic development of the village and landscape and have remained undeveloped and despite the fact that some of the boundaries have been lost over time, they remain important historically and form a vital part of the character and setting of the village and Conservation Area. Developing these fields would be harmful to the overall character of the area contrary to saved Policy 22 of the Local Plan which states that the council will seek to preserve the character of the Conservation Area, protecting trees, hedges, landscape features, views and undeveloped areas which contribute to the character of the area and its setting.
75. The Conservation Area is very extensive and as mentioned includes the historic field enclosure that radiates out north, east and west of the village. The historic landscape provides a very attractive environment and links effectively with the Brancepeth Conservation Area, which forms one of the largest areas in County Durham. This provides an important green protected corridor of significant heritage/landscape value.
76. Brandon Village is essentially a village with one street with a village green, the green served as a communal grazing area either side of the street and this area was bordered by agriculturally related buildings and cottages. The present village still embodies the remains of the old agricultural settlement, Some farms remain active, some have their outbuildings surviving, while others have been replaced by cottages and terrace housing.
77. The hill top settlement with the combination of its buildings, good use of materials and its prominent undulating site makes Brandon one of the best examples of local vernacular architecture in its natural landscape setting. The historic field enclosures part of the natural landscape setting associated with the village radiates out and includes the fields, including the application site up to Brandon Lane. This formed the setting of the village and continues to do so. Developing this site would be harmful to

the setting of this hill/ridge top village and contrary to saved Policy 22 of the local plan and part 12 of the NPPF.

78. In summary, the fields (the application site) are very important component of the Conservation Area character and the historic village setting. These fields are significant as they were part of the post medieval historic enclosures of the 17th century, the intrinsic field pattern radiated out from the village centre and is still visible today. The fields themselves have remained undeveloped over time and are important as they provide separation between the historic core of Brandon village and the adjacent housing estates in Brandon. They provide an important green buffer, and the fields are vital in preventing the coalescence of the two settlements. Development here would significantly harm the character of the Conservation Area and the surrounding area as a whole and be contrary save Policy 22 of the Local Plan and part 12 of the NPPF and on this basis design and conservation officers object to the proposals.

### **Highways Issues**

79. Highways officers have been consulted on the proposals and object to the proposals for several reasons.
80. The emerging Durham Plan contains a proposal for the Western Relief Road scheme which aims to relieve pressures on the highway network on the west side of Durham city. It is considered that the submission of this planning application is premature as the traffic impacts will add to an existing unstable network problem on the A690 and A167. Officers believe the impacts could be considered severe in accordance with the test set out in the NPPF.
81. A traffic analysis has been submitted for consideration which assesses the level of generation, distribution, and impact on the local highway network. Highways officers have assessed this analysis and do not agree with some of its outcomes. In particular, traffic generated from the development will enter a congested network either at Saw Mill Lane or at Front Street Langley Moor. This additional traffic would result in additional queuing and delay on the A690 to Stonebridge and Neville's Cross, and would add to queues at Front Street and Saw Mills Lane. Whilst the level of generated traffic is below the Department for Transport threshold for junction analysis requirement, it is considered that the cumulative impact of this site together with any additional growth or generation from sites west of Durham City cannot be accommodated on the already saturated network.
82. In addition to the above, a residential travel plan has been appended to the transport statement, the contents of which do not afford confidence that sustainable travel planning has been given any priority.
83. The layout of the proposed development follows a mix of standard cul – de sac arrangement; private shared drives; and a proposed adopted shared use space. The proposed shared use space which is indicated as to be adopted is not acceptable. The concept of the development must be clear and in this case it is unclear as to the purpose and difference of the shared use space in relation to the private shared drives and standard highway layout.
84. No turning provision is made for vehicles in the proposed shared surface area. Its purpose, use and access location together with lack of turning facility is unacceptable. The private shared drives must be a maximum of 25m long in



accordance with the Council's emerging highway design guidance. The private shared drive is over 60m in length creates a problem for servicing and refuse collection and is also unacceptable. The design layout contains poorly thought out parking provision. Some parking areas are indicated entering the footways longitudinally, or entering the carriageway across radii. This creates safety and buildability issues and cannot be accepted. The parking provision does not meet with the Council's adopted standard for residential parking. No 'non allocated ' visitor parking provision has been made throughout the site, this is not acceptable. The turning head to the rear of unit 19 is too short and has not been designed to take into account vehicle turning requirements, this is also not acceptable.

85. In summary, highways officers object to the proposals due to the impact of increased traffic on the strategic road network and due to the layout of the development not complying with the Councils highways standards and subsequently creating an adverse impact on highway safety. Therefore the proposals are considered to conflict with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the NPPF.

### **Affordable housing**

86. It is important to remember that the provision of affordable housing is only a benefit if the site is otherwise considered suitable for residential development in general. The provision of affordable housing where a need has been identified is encouraged through the NPPF (Para's 47, 50, and 159) which also requires a range of dwelling types and sizes, including affordable housing to deliver the sustainable, inclusive and mixed communities. Emerging Policy 31 of the CDP is consistent with these objectives of the NPPF.

87. The SHMA, NPPF, Policy H12 of the CDLP and draft Policy 31 of the CDP therefore provide the justification for seeking affordable housing provision on this site. The County Durham Strategic Housing Market Assessment update (SHMA) report was completed in 2013 and supplies the evidence base for 20% affordable housing across the Central Durham Delivery Area where Brandon is located (on sites of 15 dwellings/0.5 hectares), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets.

88. The applicant's planning statement advises that 20% of affordable housing will be provided as part of the development. Policy 31 specifies a tenure mix of 75% affordable rented housing and 25% intermediate housing. Should planning permission be granted for this scheme, a S106 legal agreement will need to be secured to ensure delivery, and this should reflect the policy requirements for affordable rent (75%) and intermediate (25%).

### **Economic Impact**

89. As part of the justification for the development proposals, the applicant has submitted an economic statement which sets out the economic circumstances of the landowner who owns and operates Brambledown Landscaping Services. The report details the benefit the proposed development would have on the business due to the capital receipt from the sale of the land for housing. It is stated that the financial gain from the sale of the land would be re-invested back into the business allowing the business to grow back to its former turnover level. It is stated that the economic benefits to the business and the local economy would significantly outweigh any adverse impact.

90. Business Durham have been consulted and have assessed the submitted economic statement and in light of its findings supports the sale of land to release capital for Brambledown to re-invest back into the company.
91. Business Durham state that Brambledown has depots in Yorkshire and Tyneside, but its head office is based in Brandon. The company employs 69 staff with 30% living within a 2 mile radius of Brandon and 50% within a 5 mile radius. The company also supports a number of local contractors, however, the number of contractors has also significantly reduced over the last few years. The company has enjoyed a steady growth in previous years and re-invested its profits back into the business, forming a strong business built upon contracts from Local Authorities across the North East. According to Brambledown's economic contribution report, over the last 5 years, the company has suffered from a downturn in business due to the recession. Staffing and sub-contracting costs make up the majority of the company's outgoings, and in 2013 the company made a loss. The company has had to undergo changes to cope with the loss of public sector environment and regeneration contracts across the region. They have had to make staff redundancies and have reduced their number of vehicles on the road as well as having to put a freeze on replacement of older vehicles. The directors have realised that in order to safeguard current employment and to maintain its position in the current marketplace as well as having the capability to act on new opportunities that present themselves, the company will need to find a source of new finance. The capital receipt from the sale of land at the current site would assist in securing the long term future of Brambledown, the people it currently employs and assist in future expansion plans.
92. Officers acknowledge that the economic situation of Brambledown can be looked upon by members as a planning consideration, although it is not considered that this should outweigh the objections in terms of the principle of the development, the adverse impact on the conservation area and the significant highway safety concerns raised. Indeed, it is respectfully suggested that supporting failing businesses through the granting of inappropriate planning permissions for residential development would create an undesirable precedent and on this basis should be avoided.

### **Letters of concern from nearby residents**

93. 7 letters have been received from local residents whose main areas of concern are that the proposals would result in flooding due to the gradient of the site and existing watercourses, there would be a loss of wildlife, the green space is in a conservation area and has a well used public footpath running through it and that the proposals would lead to loss of light due to the topography of the land.
94. In terms of flood risk there have been no objections from either the Environment Agency or Northumbrian Water who have assessed the proposed means of both foul and surface water drainage. Ecology Officers and Natural England have been consulted with regard to the potential impact on wildlife and neither have raised an objection to the proposals. In terms of the public right of way the applicant proposes to maintain access through the site and on this basis there have been no objections from the public right of way officers. Finally, officers agree with the objections from residents that the proposals would lead to an adverse impact on the conservation area and would result in the loss of an important landscape feature.

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## **CONCLUSION**

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95. In summary it is considered that the principle of the development is not acceptable as the site lies outside of the settlement boundary and would have a significant adverse impact on the character and appearance of the Brandon Conservation Area. The proposals are not acceptable in terms of highway safety due to the impact on the strategic road network and the unacceptable layout of the proposed development. In addition to this, there are other more appropriate sites for residential development in the nearby locality including a site which has been put forward as a housing allocation in the County Durham Plan which forms part of the Councils five year housing land supply. The business issues raised by the applicant have been noted and acknowledged, however it is not considered that such issues outweigh the significant planning concerns outlined in this report.

96. On the basis of the above, officers recommended that the application be refused.

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## **RECOMMENDATION**

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

1. The proposed development would result in an adverse impact on the character and appearance of Brandon Conservation Area contrary to saved policy E22 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.
2. The proposed development by way of its layout and design would lead to an adverse impact on highway safety contrary to saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the National Planning Policy Framework.
3. The Local Planning Authority considers that the proposed development, as result of the levels of traffic that it would contribute towards already saturated junctions at peak times would lead to severe cumulative impacts upon the transport network in form of exacerbated delays contrary to paragraph 32 of the National Planning Policy Framework and saved policy T1 of the City of Durham Local Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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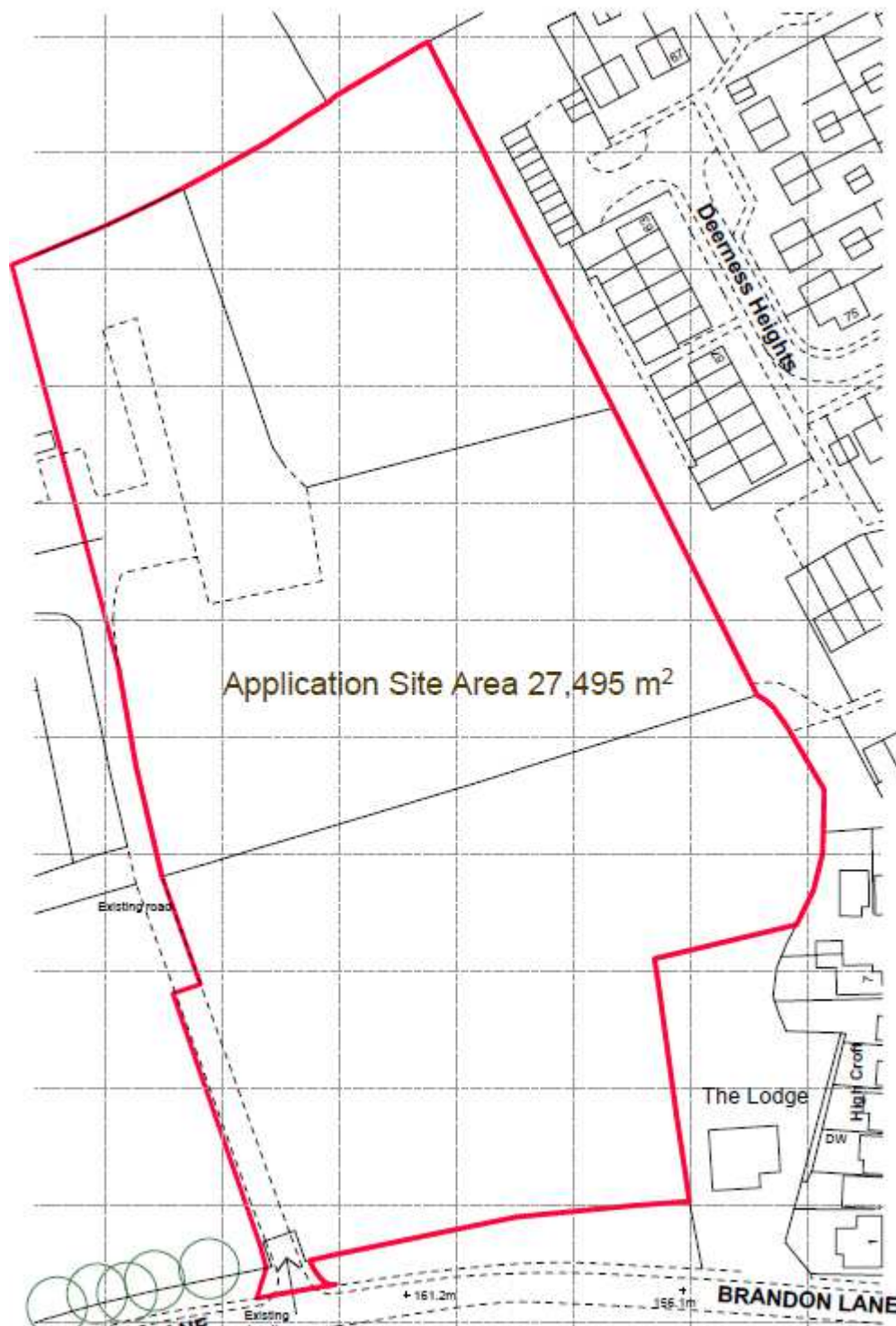
In dealing with the application, the local planning authority has worked with the applicant and nearby residents in a positive and proactive manner based on attempting to seek solutions to problems arising during the application process. The decision has been made within the target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documentation  
City of Durham Local Plan 2004  
National Planning Policy Framework  
Emerging County Durham Plan  
Consultee responses



**Planning Services**

Land to the west of Deerness Heights,  
Brandon

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**Date** 11<sup>th</sup>  
November 2014





## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	4/14/02160 & 4/14/02161
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from office (B1) to 43 bedroom hotel and 29 room aparthotel (C1) restaurant and bar (A3/A4) with 150 covers, leisure club and spa (D2) and associated access, car parking and landscaping. Internal and external alterations to a Listed Building.
<b>NAME OF APPLICANT:</b>	The Kevin Brown SIPP
<b>ADDRESS:</b>	Old Shire Hall, Old Elvet, Durham
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. Old Shire Hall is a Grade II Listed Building which fronts directly onto Old Elvet, within a prominent location in the eastern area of Durham City Centre and within the Durham City Conservation Area.
2. Construction of 'The Shire Hall' commenced in 1896 when the Earl of Durham laid the foundation stone, it was built as the headquarters for the newly formed County Council and in 1898 was opened by the Chairman of Durham County Council, Mr Alderman Samuel Storey.
3. Built by Rankin of Sunderland in baroque style, the building is constructed with a bright red engineering brick with copious terracotta and sandstone ashlar dressings sandstone ashlar dressings. The roof is covered with lakeland slate with terracotta crestring has a feature copper dome.
4. The building was extended in 1905 to house the education department and remained in the ownership of the Council until 1963 when they moved to the current headquarters at Aykley Heads in County Hall.

5. The Shire Hall was then used as the headquarters and administrative offices of the University until 2012 housing 150 staff including the Vice-Chancellor, Registrar and Treasurer along with many of the university administrative personal and management. The building has been empty since the University moved to its new Campus in 2012. To date it has been well maintained however increasing maintenance makes it imperative that a viable and sustainable solution is found for the long lasting preservation of the building.

## **The Proposal**

6. This application is for both full planning permission and listed building consent for the change of use from offices to a 43 bedroom boutique hotel and 29 room aparthotel restaurant and bar, leisure club and spa and associated access, car parking and landscaping.
7. The impacts on the historic fabric would be minimal, and an effort has been made to retain the significant features and reuse existing service routes, circulation and compartmentalisation. The proposals are sensitive to the external façade and setting within the conservation area and the minimum of interventions are proposed. Significantly the proposals will repair or reinstate original features, involve no major changes in layout or removal of significant elements of the building except to insert lifts and some demolition to modern unsympathetic extensions within the internal courtyards.
8. The buildings existing form lends itself to the separation into hotel rooms, the layout of the east, west and central corridors, with a number of both large and small offices, are suited for the sub-division of the hotel into rooms and suites. It is proposed to convert the most important heritage asset, the former council chamber, into the bar/bistro and restaurant. The less important areas in the lower ground floor would be converted into a spa area.
9. It is proposed to use a one way circulatory vehicular route through the site with access from Old Elvet to Court Lane. Court Lane is presently used to service development adjacent to the application site accessed via block paved forecourt with parking space alongside.
10. It is proposed to relocate existing public cycle parking facility from within the carriageway in front of the building to a location within the wide footway area. Eight covered, lit and secure cycle parking spaces are also proposed on site. 72 rooms are proposed for the development which would equate to a demand for 14 car park spaces using current standards. The applicant proposes to provide 33 parking spaces which would meet the expected demand.
11. Highway amendments are proposed by the applicant which include removal and relocation of parking bays to accommodate a drop off and pick up point and adjustment to a current bus stop location to accommodate a coach drop off/ pick up point.



12. It is hoped that the proposed works would facilitate Old Shire Hall being converted into an appropriate, viable and long term sustainable use which would permit public access to the heritage asset.
13. This application is being referred to Committee as it is classed as a major development.

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## **PLANNING HISTORY**

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14. Numerous planning applications have been approved over recent years for internal alterations to the listed building in order to facilitate its use as University Offices.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

15. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
16. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’

The following elements are considered relevant to this proposal;

17. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
18. *NPPF Part 2 – Ensuring the vitality of town centres.* States that the planning system should be positive, should promote competitive town centre environments and should set out policies for the management and growth of centres over the plan period.
19. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
20. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

21. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible, Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
22. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
23. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
24. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

*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/nppf>*

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

25. *Policy CC1 Vitality and Viability of Durham City Centre* – States that the Council will seek to protect and enhance the vitality and viability of the city centre.
26. *Policy E6 Durham City Centre Conservation Area* - states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
27. *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.

28. *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.
29. *Policy E21 Conservation and Enhancement of the Historic Environment* requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
30. *Policy E22 Conservation Areas* seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
31. *Policy E23 Listed Buildings* seeks to safeguard listed buildings and their settings by not permitting, development that would adversely affect the special interest of a listed building, total or substantial demolition, or development detracting from the setting of a listed building. Any alterations must be sympathetic in design, scale and materials.
32. *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.
33. *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.
34. *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.
35. *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.
36. *Policy V6 – Tourism within settlement boundaries* states that planning permission will be granted for new visitor accommodation or extensions to existing visitor accommodation within the boundary of settlements provided that the development is appropriate to the scale and character of the area and such a proposal does not conflict with other policies contained within the plan.

## EMERGING POLICY:

37. The emerging County Durham Plan was Submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
38. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
39. *Policy 16 (Sustainable design in the built environment)* - This policy addresses the built environment and aims to ensure that all new development (e.g. extensions, alterations, changes of use of existing buildings) in County Durham achieves high standards of sustainable design. Applications for major new development must be accompanied by a full Sustainability Statement demonstrating how proposals will make a positive contribution to the character and sustainability of County Durham. A relevant supporting Sustainability Statement may be required for other development which raises particular planning or sustainability issues. In doing so applications should reference the principles of BREEAM to measure the inherent sustainability of a project.
40. *Policy 18 (Local Amenity)* - Planning has an important role to play in making sure that new development does not have, and is not at risk from, adverse environmental effects. Ensuring a good standard of amenity for all existing and future occupants of land and buildings is a core planning principle of the NPPF. New and existing development should not contribute to, or be put at risk from, pollution or other sources of nuisance or intrusion which could adversely affect amenity. This policy outlines the considerations to be taken into account in determining planning applications to ensure that amenity is protected from a wide range of potential environmental impacts.
41. *Policy 44 (Historic Environment)* - Development will be required to preserve the fabric, character, setting and cultural significance of designated and non-designated heritage assets and seek opportunities to enhance structures and areas of significance throughout County Durham.
42. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and

direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

*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:**

43. Northumbrian Water have no objections to the proposals.
44. The Environment Agency initially objected to the proposals as no Flood Risk Assessment had been submitted. However, this has now been resolved and the Environment Agency have no objections to the proposals subject to conditions requiring details of safe routes from the site and flood protection of the basement.

### **INTERNAL CONSULTEE RESPONSES:**

45. The Councils Sustainability Officer raises concerns that no sustainability statement has been submitted. However, the requirement for carbon reduction measures and renewable energy can be controlled with a planning condition.
46. The Councils Ecology Officer has assessed the bat and barn owl report and has no objections to the proposals subject to mitigation within the report being conditioned.
47. Archaeology Officers have offered support to the principle of the conversion of Old Shire Hall but have requested conditions requiring monitoring of works where there may be an archaeological impact.
48. Highways Officers have assessed the proposals and do not object subject to various conditions relating to details of loading bays, tree pits and paving surfaces and cycle parking facilities.
49. Environmental Health Officers do not object to the proposals but have requested conditions relating to sound insulation of walls and noise emanating from the site, details of external lighting, details of fume extraction and construction hours.
50. Tree Officers have no objections to the proposals but require trees which are to be retained to be protected throughout the development.
51. Landscape Officers do not object to the proposals subject to a condition requiring a soft and hard landscaping scheme.
52. Design and Conservation Officers state that the level of harm resulting from the proposals would be less than significant and that the proposal would bring a vacant building back into use, potentially securing its future and having a positive impact on the Conservation Area in addition to a public benefit.

## **PUBLIC RESPONSES:**

53. The application has been advertised by way of site notices, press notice and letters to individual residents. 7 letters of objection have been received as a result of the consultation exercise. The main area of concern relates to the increase in parking provision and arrangements for access to the site. The majority of objections have been submitted by residents or owners of The Cathedrals apartments to the south of the application site. Other concerns include an increase in noise and disturbance due to the increased traffic and the loss of trees and wildlife due to the proposed parking area.

## **APPLICANTS STATEMENT:**

54. The application site currently comprises of a Grade II Listed building at the heart of the historic City of Durham. It is a significant and important landmark and forms part of the cultural and historic setting to the City. The building has been vacant since 2012 when the university moved to their new Campus. It currently contributes little to the City from an economic perspective and requires significant investment to bring it back into a long lasting viable economic use.
55. The application proposals seek to retain and preserve the historical significance of the building whilst bringing it back into a beneficial economic and public use. Through the private investment of £7.5m, the building will be turned into a high quality boutique 4 star hotel and aparthotel the likes of which do not currently exist in the City. In doing so, it is predicted that it will attract around 21,000 additional visitors to the City and bring further income into local businesses from the spending power of those visiting the City.
56. The hotel will consist of 43 boutique hotel bedrooms and 29 aparthotel suites, the need for both has been identified in the Durham Tourism Management Plan 2012 – 2016 and the County Durham Visitor Accommodation Futures Study, which also identifies an extremely high level of occupancy and a lack of bed numbers in the City Centre with 625 new beds required by 2030.
57. The study also identifies that the visitor economy is currently worth over £659m to County Durham. 1.51 million overnight tourists visited County Durham in 2010, spending almost 4.2 million nights in the area, our proposals will not only attract new overnight and extended stay visitors, but also provide high quality dining and leisure facilities within the City making Old Shire Hall one the must visit destinations for visitors and local residents.
58. The proposals for the 29 bedroom aparthotel fills a demand for accommodation that isn't currently available in the City. This type of accommodation will allow professional people to make extended stays in the City for business and to support the academic institutions. This increasingly attractive form of accommodation seen widely in other major cities in the north of England is an alternative to medium term residency in a hotel and provides residents with their own self-contained accommodation without having to commit to a minimum 6 month stay required in the private rental sector.

59. With the Council's aspirations in the emerging Local Plan to turn Durham, through the redevelopment of Aykley Heads into a business destination to rival the other major northern cities and to attract multinational business to locate its headquarters, this type of hotel and residential offer and adjoining complementary spa and leisure facilities (that will be available for use by both the hotel and aparthotel customers as well as local people) provide an attractive offering for businesses moving to the City. In planning terms the proposals are fully in accordance with National and existing local policy and are also in accordance with the emerging local plan currently going through Examination in Public. There are no planning reasons why the application should be refused. It will bring economic and social benefits to the City and through architecturally sensitive redevelopment and improvements to the existing building, the proposals will secure the long term preservation of the heritage asset.
60. Through pre-application discussions and throughout the consideration of the detailed applications, the applicant has worked closely with planning and conservation officers to create an agreeable scheme that is both sensitive to the history of the building and the City but also economically viable.
61. It is predicted that if planning permission is approved that the site will bring forward 60 new jobs as part of the operation of the business. This does not include the significant local employment that will be created during construction. This represents a significant economic benefit to the City. In turn, the new hotel, bar, restaurant, spa and aparthotel are predicted to bring an additional £3m spend into the City with further benefits to the surrounding business's.

*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://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_detailview.aspx?caseno=M4W1OFBN5B000](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=M4W1OFBN5B000)

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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62. Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision.
63. In this instance, the relevant considerations are the principle of the development; in particular the accordance with the Governments recently published National Planning Policy Framework (NPPF), saved local plan policies and the emerging County Durham Plan (CDP). Other material considerations are the impact on heritage assets, highways issues, ecology and trees, archaeology and the concerns raised by local residents.

## **Principle of the development**

64. In terms of the principle of the development the National Planning Policy Framework sets out that the planning system should aim to build a strong competitive economy and to ensure the vitality of town centres, these aims are reflected in the saved policies in the City of Durham Local Plan.
65. In particular, saved Policy CC1 states that the Council will seek to protect and enhance the vitality and viability of the city centre by promoting mixture of uses in the area. In addition to this saved policy V6 states that planning permission will be granted for new visitor accommodation or extensions to existing visitor accommodation within the boundary of settlements provided that the development is appropriate to the scale and character of the area and such a proposal does not conflict with other policies contained within the plan.
66. It is considered that the proposals would result in an economic benefit to the city creating employment and regeneration benefits to this part of the town centre helping maintain its vitality. It is also considered that the proposals are appropriate to the scale and character of the area and for these reasons it is considered that the proposals are in accordance with the aims of parts 1 and 2 of the NPPF and saved policies CC1 and V6 of the City of Durham Local Plan
67. As stated by the applicant, the proposed hotel would consist of 43 boutique hotel bedrooms and 29 aparthotel suites, the need for both has been identified in the Durham Tourism Management Plan 2012 – 2016 and the County Durham Visitor Accommodation Futures Study, which also identifies an extremely high level of occupancy and a lack of bed numbers in the City Centre with 625 new beds required by 2030.
68. The studies go on to say that Durham has the strongest potential for hotel development in the county. There is a potential for 3-4 new hotels in Durham City by 2030 of varying standards (from budget to 4 star and boutique), in addition to the planned extension to Ramside Hall, depending on how strongly and quickly the market grows and the pace of hotel development in surrounding areas that currently generate demand for hotel accommodation in Durham. In the short term the priority in the city is for boutique hotel development such as the one being proposed. A mid-market hotel could also come forward in the medium term. The market potential for 4 star hotel development is longer term and subject to a much stronger corporate market in the city. On the basis of the above it is considered that the principle of a boutique hotel and aparthotel in this part of the city centre is acceptable.

## **Impact on heritage assets**

69. Saved Local Plan Policies E6, E21 and E22 all require the character of conservation areas to be preserved or enhanced. Policy E6 is particularly relevant to this application as it relates to the Durham City Centre Conservation Area. It states that the special character, appearance and setting of the Durham City Centre Conservation Area will be preserved or enhanced. This reflects the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the



character or appearance of a conservation area when exercising its planning functions.

70. In addition to the above Local Plan Policies, saved Policy E23 seeks to safeguard listed buildings and their settings by not permitting, development that would adversely affect the special interest of a listed building, total or substantial demolition, or development detracting from the setting of a listed building. Any alterations must be sympathetic in design, scale and materials. These saved Local Plan policies are considered to reflect the aims of part 12 of the NPPF which seeks to protect and enhance heritage assets. In addition, the Local Planning Authority is required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses when considering granting planning permission for development which affects a listed building or its setting.
71. The Councils Design and Conservation team have been consulted on the proposals and have had extensive pre-application discussions with the applicant who has taken on board suggestions and advice in order to put forward an acceptable scheme.
72. The proposals for change of use, and bringing a redundant nationally important Grade II building back into use are welcomed. The proposed use Hotel, apartlet and associated leisure uses would appear to be appropriate, and offer an important opportunity in assisting the regeneration of Old Elvet.
73. The proposed change of use and the envisaged requirement of the end user/operator will result in impact on both the physical fabric and potentially the visual appearance, architectural character of the building. The most visible alterations to the front elevation facing Old Elvet include the installation of "French Doors", the alteration to existing vehicular access and signage. All of which would appear to be acceptable in terms of their design and impact on the Conservation Area subject to detailing secured through conditions.
74. The principal areas of concern are those relating to the impact on the former council chamber. The proposed intervention will drastically alter its character, resulting with a debating chamber devoid of its carefully planned hierarchical seating arrangement means that its original function is that much harder to understand. As one of the key spaces of the original building this change causes harm to the significance of the listed building. However, justification for this has been clearly articulated and thus justified within the planning submission.
75. It is identified that the level of harm in respect of the proposed interventions within the former council chamber is high; however the overall harm to the remainder of the building is less than significant, with a generally sensitive approach to external alterations, and intervention elsewhere considered to facilitate function and based upon a principal that is considered against significance. Overall it is considered that the impact is less than substantial and therefore in line with National Policy Section 132 of the National Planning Policy Framework (NPPF) the degree of harm is less than substantial, and as such it should be balanced against the public benefits of finding a new use for the building (sections 131 and 134 of the NPPF).

76. The proposal would bring a vacant building back into economically viable use and potentially secure its future, its maintenance and prevent further deterioration and damage that may incur over the long term with buildings that are vacant. In addition with regards to the impact on the Conservation Area, this proposal would have a positive impact within Old Elvet, thus having additional public benefit. On the basis of the above the Councils Design and Conservation Officers support the application subject to condition requiring final details of construction and therefore the application is considered to be in accordance with saved policies E6, E21, E22, E23 of the City of Durham Local Plan and part 12 of the NPPF.

## **Highways Issues**

77. The impacts of travel and demands for each use have been considered individually and in combination to arrive at a view as to the suitability of the development. The development sits within a highly accessible location within easy access to the city's central transport and retail hubs.
78. The level of traffic generation from such a development has been assessed against the previous development use traffic generation for B1 office accommodation. The building was used until 2012 by Durham University to accommodate 150 personnel and it is in this context that transport impacts are assessed. It is accepted that there would be no material increase over and above the previous use and that temporal distribution would be less concentrated for the proposed development. On that basis it is considered that the traffic generation can be accommodated within the existing network and junctions.
79. The applicant intends to provide a total of 33 car parking spaces within the constrained site with improved widened access from Old Elvet. The Council's car park standards would require a minimum of 1 space per 5 bedrooms for hotel / aparthotel guests and 1 space per 5 members of staff for accessible city centre locations. No space is required for city centre leisure or restaurant facilities in recognition of the fact both on street and off street car parking is available in the city centre. It is therefore considered parking provision would be acceptable for the proposed development. Potential increase in pressure for parking demand in this area of the city may result. Such pressure would cause an expansion of areas for parking demand in the area which could result in increased demand in city centre car parks. Such impacts could not be considered severe in highway terms.
80. The proposal includes removal of parking space within the highway to the front of the development. It is estimated a minimum of 8 spaces would be lost and subsequently a loss in revenue to the authority of £22,000 per annum from parking charges. It is important that Committee members are made aware of this significant impact, although highways officers do not offer any objection on this basis and it is not a planning consideration.
81. The proposal also indicates that two way access and egress is to be taken from Old Elvet with a widened access point and a length of access road to permit two vehicles to pass side by side. It is considered that the site can operate from this single access

point, although it is noted a secondary access and egress point may be formed from Court Lane.

82. The applicant shows an amendment to the cycle parking area on Old Elvet which is within the public highway. The amendment is shown to accommodate coach and commercial vehicles. In order to provide such a facility in the public highway an appropriately constructed loading bay with a traffic regulation order would be required. The loading bay would require splayed entry and exit points which could result in the loss of a further three bays and relocation of the electric vehicle charging points. The applicant also shows removal of parking space from Old Elvet at the hotel entrance to accommodate drop off and pick up points. As such the details of these arrangements should be the subject of a condition.
83. The applicant indicates a proposal to introduce seven highway trees within the adopted footway in front of the development. The type, size and detail of tree pits should be subject to a condition along with details of tactile footways for visually impaired persons indicating the presence of trees.
84. Sustainable transport options for pedestrians and cyclist should be a realistic alternative in such location where visitors can arrive via cycle rail or coach. It is proposed to relocate existing public cycle parking facility from within the carriageway in front of the building to a location within the wide footway area. This would be supported but must be funded by the developer. Eight covered, lit and secure cycle parking spaces are proposed on site. This is acceptable and meets current standards, details of the cycle spaces should be subject to a condition. The applicant has been informed that all proposed works within the public highway would be expected to be met at their expense.
85. There is an existing pedestrian demand through the site from Court lane to Old Elvet. Whilst this is not a Public right of way there is likely to arise a claimed right for pedestrians. The applicant will need to accommodate pedestrians within the site. A shared surface access drive to and through the parking areas is accepted as the most appropriate solution where vehicles speeds will be very low due to physical constraints.
86. In light of the above and subject to the appropriate planning conditions, it is considered that the proposals are acceptable from a highways point of view and would be in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the NPPF.

## **Ecology and Trees**

87. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 make it an 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. Accordingly, the Regulations have established a regime for dealing with derogations in the form of a licensing system administered by Natural England.

88. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty to have regard to the requirements of the Regulations/Directive in the exercise of its functions. A Local Planning Authority failing to do so would be in breach of the Regulations. Specifically, where a likely interference to a European Protected Species is identified, the LPA must consider whether a developer might obtain an EPS licence from Natural England, which in turn calls for an application of the derogation tests. The derogation tests are threefold as follows:
- That there is no satisfactory alternative
  - That the population of the species will be maintained at a favourable conservation status in their natural range
  - That there are imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance to the environment
89. Part 11 of the NPPF seeks to conserve and enhance the natural environment whilst saved Policy E16 of the City of Durham Local Plan is aimed at protecting and enhancing the nature conservation assets of the former district. Development proposals outside specifically protected sites such as the application site 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 should be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
90. The Council's Ecology Officer has assessed the proposals and has confirmed that the submitted ecological report is sufficient to inform the application and no objections are raised. It is noted that a bat roost was found during the surveys which appears to be unaffected by the proposals. However, it is important that the roost is not affected by new lighting installed as a result of the conversion of the building. Similarly the functionality of the bat roost must not be affected by any works connected to the proposal. If any works have the potential to affect the roost (scaffolding, mortar pointing, re-roofing etc) then the project ecologist must be informed and a European Protected Species Licence obtained from Natural England. On this basis, and on the basis that the mitigation measures in the submitted ecological report are conditioned, it is considered that the proposals are acceptable from an ecology point of view and in accordance with saved policy E16 of the City of Durham Local Plan and part 11 of the NPPF.
91. Saved Policy E14 sets out the Council's requirements for considering proposals which would affect trees and hedgerows. It states that 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. This is also reflected in the aims of part 11 of the NPPF.
92. It is noted that there are mature trees within the site and within the site of neighbouring properties, the roots of which may be disturbed or damaged during construction. Therefore it is suggested that a condition requiring tree protection is

added in order to ensure trees are adequately protected during the construction phase should planning permission be granted. On this basis it is considered that the proposals would be in accordance with part 11 of the NPPF and saved policy E14 of the City of Durham Local Plan.

### **Letters of concern from nearby residents**

93. As noted above, 7 letters of objection have been received as a result of the consultation exercise. The main area of concern relates to the increase in parking provision and arrangements for access to the site. The majority of objections have been submitted by residents or owners of The Cathedrals apartments to the south of the application site. Other concerns include an increase in noise and disturbance due to the increased traffic and the loss of trees and wildlife due to the proposed parking area.
94. As a result of negotiations with highways officers, plans have been amended to show visitor access and egress from the site coming off Old Elvet with access to the rear being used as a secondary access and as such, traffic passing the Cathedrals apartments will not be significantly increased, resulting in limited impact on residential amenity. In addition, both landscape and ecology officers have no objections to the proposals with regard to loss of trees and wildlife subject to conditions being imposed.
95. In light of the above, all of the issues raised by residents have been fully assessed either within this report or during the planning application process and their impacts are not considered to warrant refusal of planning permission.

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## **CONCLUSION**

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96. Old Shire Hall is an important, prominent listed building within the Durham City Conservation Area. The proposals would bring the vacant building economically viable use and potentially secure its future, its maintenance and prevent further deterioration and damage. The building would be sympathetically restored and minimal alterations would be made which would be of benefit to the Old Elvet part of the Durham City Conservation Area and to the public who would benefit from public access to the building.
97. The proposals would contribute to the identified need for high quality accommodation in the city centre and would lead to regeneration, investment and employment. It is considered that all of these benefits would significantly outweigh any harm caused by the minimal alterations to the heritage asset and on this basis the application is recommended for approval.

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## **RECOMMENDATION**

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That the planning application reference DM/14/02160/FPA be **APPROVED** subject to the following conditions:

## 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.

Location and Block Plan HUB018.PPA.01, Existing Basement & Ground Floor Plans HUB018.PPA.02 B, Existing First and Second Floor Plans HUB018.PPA.03 B, Proposed Lower Ground & Ground Floor Plans HUB018.PPA.04 E, Proposed First and Second Floor Plans HUB018.PPA.05 E, Proposed Site Plan HUB018.PPA.07 Q, Proposed Central Passenger Lift Detail - As Existing HUB018.PPA.08, Proposed Central Passenger Lift Detail - As Proposed HUB018.PPA.09 B, Existing Site Plan HUB018.PPA.10 A, Council Chamber Existing & Proposed Plans & Section Q-Q HUB018.PPA.11 C, Details Sheet - Details 1, 1a, 2, 3, 4, 5 Typical Ensuite / Mezzanine Detail / Fire Protection Details HUB018.PPA.12, Existing Street (North) and Existing Sectional Lower Level Elevation HUB018.PPA.13 A, Proposed Street (North) and Proposed Sectional Lower Level Elevation HUB018.PPA.14 B, Existing & Proposed Sectional South Elevation R - R HUB018.PPA.15 B, Existing & Proposed Sectional West Elevation HUB018.PPA.16 B, Proposed Signage Front / North Elevation HUB018.PPA.17 C, Existing and Proposed Sections A-A, B-B, C-C, D-D, E-E, & Proposed Replacement Roof Lantern Detail HUB018.PPA.18 A, Existing and Proposed Sections O-O, L-L, T-T HUB018.PPA.19 B, Existing and Proposed Sections H-H, J-J, K-K, M-M, N-N HUB018.PPA.20 A, Existing and Proposed Sections Through Rotunda & Section P-P & GG HUB018.PPA.21 B, Vehicular Entrance to Old Elvet As Existing & Proposed HUB018.PPA.22 A, Topographical Survey HUB018.PPA.24, Intervention Impact Plans Lower Ground Floor HUB018.PPA.25, Intervention Impact Plans Ground Floor HUB018.PPA.26, Intervention Impact Plans First Floor HUB018.PPA.27, Intervention Impact Plans Second Floor HUB018.PPA.28, Existing and Proposed Roof plans HUB018.PPA.29 B, Existing and proposed Section F - F HUB018.PPA.30 a, Site Services Proposed Plant HUB018.PPA.31

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E6, E14, E21, T1, T10, Q8 and U8A of the City of Durham Local Plan 2004.

3. In relation to the development hereby permitted, no machinery shall be operated, no development shall be carried out and no construction traffic shall enter or leave the site outside the hours of 0800 hours and 1800 hours Mondays to Friday, 0800 hours and 1300 on Saturdays and not at all on Sundays and Bank Holidays.

Reason: In the interests of residential amenity and to comply saved policy H13 of the City of Durham Local Plan.

4. No development shall commence until a scheme for tree protection has been submitted and agreed in writing with the Local Planning Authority. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated in the agreed tree protection scheme as to be retained for the duration of the construction works, are protected by the erection of fencing in accordance with BS.5837:2012.

Reason: In the interests of the visual amenity of the area and to comply with saved policy E14 of the City of Durham Local Plan and part 11 of the National Planning Policy Framework

5. No development shall take place unless in accordance with the mitigation detailed within the contents of Section 2 of the 'Old Shire Hall, Durham – Proposed Development. Bat and Barn Owl Report' written by Ruth Hadden and dated Summer 2014.

Reason: In the interests of protected species and to comply with the National Planning Policy Framework part 11.

6. The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by Wardell Armstrong dated September 2014 and the following mitigation measures detailed within the FRA:
  - Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.
  - Flood protection should be implemented for the basement area of the development as highlighted within the FRA.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.

Reason: To ensure safe access and egress from and to the site and to reduce the risk of flooding to the proposed development and future occupants in accordance with part 10 of the National Planning Policy Framework.

7. No development shall begin until a scheme of sound proofing showing measures to deal with sound insulation of walls and floors between the separate and adjoining properties has been submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with the approved details prior to first use.

Reason: In the interest of residential amenity in accordance with part 11 of the National Planning Policy Framework

8. No development shall commence until a scheme which specifies the provisions to be made for the control of noise emanating from the site has been submitted to and approved in writing by the Local planning authority. The scheme, as approved, shall be implemented before the development is brought into use.

Reason: In the interest of residential amenity in accordance with part 11 of the National Planning Policy Framework

9. Details of the height, type, position, angle and spread of any external lighting shall be submitted to and approved in writing by the Local planning authority prior to the development hereby permitted being brought into use. The external lighting shall be erected and maintained in accordance with the approved details to minimise light spillage and glare outside the designated area.

Reason: In the interest of residential amenity in accordance with part 11 of the National Planning Policy Framework

10. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The works agreed to 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 trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenity of the area and to comply with saved Policies E6 and Q8 of the City of Durham Local Plan and part 7 of the National Planning Policy Framework.

11. Notwithstanding any information submitted, development shall not commence until a scheme demonstrating how CO<sub>2</sub> reduction and energy efficiency measures will be incorporated into the approved development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented and retained in accordance with the approved scheme thereafter.

Reason: In order to secure a sustainable form of development in accordance with part 10 of the National Planning Policy Framework.

12. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document that shall be submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:

- i) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
- ii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
- iii) Postfieldwork methodologies for assessment and analyses.
- iv) Methodologies for a programme of building record, to be compliant with EH standards and guidance and to be carried out prior to any demolition or conversion works, or any stripping out of fixtures and fittings.



- v) Report content and arrangements for dissemination, and publication proposals.
- vi) Archive preparation and deposition with recognised repositories.
- vii) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
- viii) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
- ix) A list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications.

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

Reason: To comply with Policy E24 of the former Durham City Local Plan as the site is of archaeological interest.

13. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason: To comply with paragraph 141 of the NPPF by making the information generated publicly accessible.

14. Notwithstanding any details submitted with the application no development shall commence until a scheme to provide a loading bay is submitted to and approved by the Local Planning Authority. The loading bay shall be provided in accordance with the approved details and made available for use throughout the lifetime of the development.

Reason: In the interests of highway safety in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the National Planning Policy Framework.

15. Notwithstanding any details submitted with the application no development shall commence until a scheme detailing the type and size of tree pits is submitted to and approved by the Local Planning Authority. The tree pits shall be provided in accordance with the approved scheme and retained as such throughout the lifetime of the development.

Reason: In the interests of highway safety in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the National Planning Policy Framework.

16. Notwithstanding any details submitted with the application no development shall commence until a paving scheme is submitted to and approved by the Local Planning Authority. The paving scheme shall be constructed in accordance with the approved scheme and retained as such throughout the lifetime of the development.

Reason: In the interests of highway safety in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the National Planning Policy Framework.

17. Notwithstanding any details submitted with the application no development shall commence until a scheme showing the design, location and construction detail of cycle parking facilities is submitted to and approved by the Local Planning Authority. The cycle parking facilities shall be provided in accordance with the approved scheme and made available for use throughout the lifetime of the development.

Reason: In the interests of sustainable travel in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the National Planning Policy Framework.

18. Notwithstanding any details submitted with the application no development shall commence until a scheme detailing installation of mechanical and electrical services including ventilation for the spa and kitchen is submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

19. Notwithstanding any details submitted with the application no development shall commence until details of external doors are submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

20. Notwithstanding any details submitted with the application no development shall commence until details of external signage are submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

21. Notwithstanding any details submitted with the application no development shall commence until details of all balustrading and stair guarding are submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

22. Notwithstanding any details submitted with the application no development shall commence until details of the external walling, roofing materials and hard surfacing have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

23. No fixtures or fittings shall be removed from council chamber until with the contract for the future occupation/operation of this space has been let.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework

That the planning application reference DM/14/02161/LB be **APPROVED** subject to the following conditions:

#### **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.

Location and Block Plan HUB018.PPA.01, Existing Basement & Ground Floor Plans HUB018.PPA.02 B, Existing First and Second Floor Plans HUB018.PPA.03 B, Proposed Lower Ground & Ground Floor Plans HUB018.PPA.04 E, Proposed First and Second Floor Plans HUB018.PPA.05 E, Proposed Site Plan HUB018.PPA.07 Q, Proposed Central Passenger Lift Detail - As Existing HUB018.PPA.08, Proposed Central Passenger Lift Detail - As Proposed HUB018.PPA.09 B, Existing Site Plan HUB018.PPA.10 A, Council Chamber Existing & Proposed Plans & Section Q-Q HUB018.PPA.11 C, Details Sheet - Details 1, 1a, 2, 3, 4, 5 Typical Ensuite / Mezzanine Detail / Fire Protection Details HUB018.PPA.12, Existing Street (North) and Existing Sectional Lower Level Elevation HUB018.PPA.13 A, Proposed Street (North) and Proposed Sectional Lower Level Elevation HUB018.PPA.14 B, Existing & Proposed Sectional South Elevation R - R HUB018.PPA.15 B, Existing & Proposed Sectional West Elevation HUB018.PPA.16 B, Proposed Signage Front / North Elevation HUB018.PPA.17 C, Existing and Proposed Sections A-A, B-B, C-C, D-D, E-E, & Proposed Replacement Roof Lantern Detail HUB018.PPA.18 A, Existing and Proposed Sections O-O, L-L, T-T HUB018.PPA.19 B, Existing and Proposed Sections H-H, J-J, K-K, M-M, N-N HUB018.PPA.20 A, Existing and Proposed

Sections Through Rotunda & Section P-P & GG HUB018.PPA.21 B, Vehicular Entrance to Old Elvet As Existing & Proposed HUB018.PPA.22 A, Topographical Survey HUB018.PPA.24, Intervention Impact Plans Lower Ground Floor HUB018.PPA.25, Intervention Impact Plans Ground Floor HUB018.PPA.26, Intervention Impact Plans First Floor HUB018.PPA.27, Intervention Impact Plans Second Floor HUB018.PPA.28, Existing and Proposed Roof plans HUB018.PPA.29 B, Existing and proposed Section F - F HUB018.PPA.30 a, Site Services Proposed Plant HUB018.PPA.31

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E6, E14, E21, T1, T10, Q8 and U8A of the City of Durham Local Plan 2004.

3. No development shall take place unless in accordance with the mitigation detailed within the contents of Section 2 of the 'Old Shire Hall, Durham – Proposed Development. Bat and Barn Owl Report' written by Ruth Hadden and dated Summer 2014.

Reason: In the interests of protected species and to comply with the National Planning Policy Framework part 11.

4. Details of the height, type, position, angle and spread of any external lighting shall be submitted to and approved in writing by the Local planning authority prior to the development hereby permitted being brought into use. The external lighting shall be erected and maintained in accordance with the approved details to minimise light spillage and glare outside the designated area.

Reason: In the interest of residential amenity in accordance with part 11 of the National Planning Policy Framework

5. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document that shall be submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:

- i) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
- ii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
- iii) Postfieldwork methodologies for assessment and analyses.
- iv) Methodologies for a programme of building record, to be compliant with EH standards and guidance and to be carried out prior to any demolition or conversion works, or any stripping out of fixtures and fittings.
- v) Report content and arrangements for dissemination, and publication proposals.
- vi) Archive preparation and deposition with recognised repositories.
- vii) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.

viii) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

ix) A list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications.

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

Reason: To comply with Policy E24 of the former Durham City Local Plan as the site is of archaeological interest.

6. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason: To comply with paragraph 141 of the NPPF by making the information generated publicly accessible.

7. Notwithstanding any details submitted with the application no development shall commence until a scheme detailing installation of mechanical and electrical services including ventilation for the spa and kitchen is submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

8. Notwithstanding any details submitted with the application no development shall commence until details of external doors are submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

9. Notwithstanding any details submitted with the application no development shall commence until details of external signage are submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

10. Notwithstanding any details submitted with the application no development shall commence until details of all balustrading and stair guarding are submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

11. Notwithstanding any details submitted with the application no development shall commence until details of the external walling, roofing materials and hard surfacing have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework.

12. No fixtures or fittings shall be removed from council chamber until with the contract for the future occupation/operation of this space has been let.

Reason: In order to protect heritage assets in accordance with saved policies E21, E22 and E23 of the City of Durham Local Plan and part 12 of the National Planning Policy Framework

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In dealing with the application, the local planning authority has worked with the applicant and nearby residents in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within the target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documentation  
City of Durham Local Plan 2004  
National Planning Policy Framework  
Submission Draft County Durham Plan  
Internal consultee responses





**Planning Services**

Old Shire Hall, Durham  
DM/14/02160/FPA & DM/14/02161/LB

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**Date** November  
2014



## Planning Services

**COMMITTEE REPORT**

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**APPLICATION DETAILS**

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<b>APPLICATION NO:</b>	DM/14/02141/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline application for 5 no. dwellings with all matters reserved except access
<b>NAME OF APPLICANT:</b>	Mr Jonathan Elmer
<b>ADDRESS:</b>	The Garth Mill Road Langley Moor Durham DH7 8HF
<b>ELECTORAL DIVISION:</b>	Brandon
<b>CASE OFFICER:</b>	Tim Burnham, Planning Officer, 03000 263963 tim.burnham@durham.gov.uk

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**DESCRIPTION OF THE SITE AND PROPOSAL**

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**SITE**

1. The application site is an area of land which is associated with a residential dwelling named 'The Garth' at Langley Moor, Durham. The site currently hosts a detached bungalow with garage, garden curtilage, areas of hardstanding and in the north of the site overgrown vegetation with wooden and concrete fence posts with some rusting wire mesh. The southern part of the site is relatively flat before sloping away on the north east section of the site towards the river. To the immediate east of the site sits Deerness Boarding Kennels and Cattery. To the south west sits Langley Moor/Littleburn Industrial Estate. To the west sits an Agricultural field with the east coast railway line beyond. The site sits within the Durham City Green Belt, outside of any settlement boundary and within an area of landscape value.

**PROPOSAL**

2. Outline planning approval is sought for the erection of 5 no. dwellings at the site. The application is also seeking to agree in principle the use of an access point from Mill Road. Although indicative plans showing how the development might be laid out have been submitted, matters such as appearance, landscaping, layout and scale are reserved at this stage and would need to be agreed at a later date. Officers understand that the dwellings would be built to Passivhaus standards. This is an eco-friendly approach to building design which means that there is only a minimal heating demand to the property.

3. The application has been referred to planning committee at the request of Brandon and Byshottles Parish Council. They suggest the application incorporates innovative design features and will enable the restoration of a derelict but valued landscape in the lower Browney area.

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## PLANNING HISTORY

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4. In 1996 planning approval was granted for a single storey extension to the existing bungalow on site. In 1976 planning approval was granted for the temporary placing of a caravan at the site.

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## PLANNING POLICY

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### NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements are considered relevant to this proposal;

**7. NPPF Part 1** – Building a strong, competitive economy. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

**8. NPPF Part 4** – Promoting sustainable transport. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

**9. NPPF Part 6** - Delivering a wide choice of high quality homes. To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.

**10. NPPF Part 7** – Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

**11. NPPF Part 9** - Protecting Green Belt Land. This part of the NPPF sets out the Governments approach to the type of development that would be suitable on Green Belt land and outlines measures for its protection.

**12. NPPF Part 10** – Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

**13. NPPF Part 11** – Conserving and enhancing the natural environment. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; 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; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

**LOCAL PLAN POLICY:**

**14. Policy E1** (Durham City Green Belt) This Policy seeks to restrict development within the Green Belt to Agricultural or Forestry development, essential facilities for outdoor sport and recreation, limited infilling or redevelopment of existing major developed sites, replacement of an existing dwelling, re use or conversion of an existing building or limited extensions and alterations to existing dwellings.

**15. Policy E7** (Development outside Settlement Boundaries) This Policy outlines when development outside a settlement boundary would be deemed acceptable.

**16. Policy E10** (Areas of Landscape Value) The Council will seek to protect the landscape value of the former district.

**17. Policy E14** (Protection of existing trees and hedgerows) This Policy states that the Council will require development proposals 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.

**18. 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. As far as possible, Unacceptable harm to nature conservation interests will be avoided. Mitigation measures to minimise unacceptable adverse impacts upon nature conservation interests should be identified. The nature conservation value of the district will be enhanced through the creation and management of new wildlife habitats and nature conservation features in new development schemes.

**19. Policy E24** (Archaeological Remains) Sets out that the council will ensure that prior to the development commencing an appropriate programme of archaeological investigation, recording and publication has been made.

**20. Policy H5** (New Housing in the Countryside) Sets out that new build housing development will only be permitted where it is essential that a person needs to live near their place of work.

**21. Policy T1** (Traffic Generation - 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.

**22. 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.

**23. Policy R14** (Browney Valley) seeks to encourage the informal recreation potential of the Browney Valley.

**24. Policy R17** (Public Rights of Way) seeks to encourage and safeguard public access to the countryside.

**25. 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.

**26. Policy U7** (Pollution Prevention- Developments Sensitive to Pollution) of the City of Durham Local Plan states that developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.

**27. 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.

**28. Policy U12** (Development on Contaminated Land) This Policy seeks to ensure that sites are not contaminated or are suitably decontaminated prior to development.

**29. Policy U13** (Development on unstable land) This policy states that development on unstable land will only be permitted where there is no risk to users of the development or where appropriate remediation measures can be undertaken.

#### **EMERGING PLANNING POLICY**

30. The emerging County Durham Plan was submitted in April 2014 and is currently being examined in public. In accordance with paragraph 216 of the NPPF, decision makers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application; Policies 1, 14, 15 and 16 are particularly relevant. They state;

#### **31. Policy 1 Sustainable Development**

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in County Durham.

## **32. Policy 14 Green Belt**

Within the Green Belt, as shown on the Proposals Map, the construction of new buildings will be regarded as inappropriate and will not be permitted. There are specified exceptions to this.

**33. Policy 15 – Development on un-allocated sites** All development on sites that are not allocated in the County Durham Plan or in a Neighbourhood Plan will be permitted provided the development:

- a. Is appropriate in scale, design and location to the character and function of the settlement;
- b. Does not result in the loss of a settlement's last community building or facility (of the type which is the subject of the proposal) unless it can be demonstrated that it is no longer viable or has not been purchased by the community following the procedures set out in the Community Right to Bid;
- c. Is compatible with and does not prejudice any intended use of adjacent sites and land uses; and would not involve development in the countryside that does not meet the criteria defined in Policy 35 (Development in the Countryside).

## **34. Policy 16 Sustainable Design in the Built Environment**

This Policy outlines a number of manners in which sustainable development could be achieved.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>, <http://durhamcc-consult.limehouse.co.uk/portal/planning/ps/psdlp?pointId=1379602383089#section-1379602383089> & <https://www.gov.uk/government/publications/national-planning-policy-framework--2>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

35. Brandon and Byshottles Parish Council: issue support for the application as it would incorporate innovative design features and will enable the restoration of a derelict but valued landscape in the lower Browney area.

36. Highways Development Management: No objection to the application subject to highways improvements proposed

37. Northumbrian Water: No objection

38. Coal Authority: Object – coal mining risk assessment required

### **INTERNAL CONSULTEE RESPONSES:**

39. Planning Policy: object to application as the principle of the development is not acceptable

40. Archaeology: No objection

41. Environmental Health: Object to the application due to noise issues

42. Contaminated Land: No objection – site survey required

43. Ecology: No objection

44. Drainage: No objection

45. Landscape/Trees: No objection

46. Sustainability Section: Support Passivhaus principle

47. Public Rights of Way: object to application.

**PUBLIC RESPONSES:**

48. The application has been advertised through neighbour notification, a press notice and a site notice.

49. Six letters of support have been received including letters from the County Durham Green Party and the friends of Langley Moor. These letters support the principle of the proposed Passivhaus development adding that it would bring an innovative and prestigious development to the area. The green principle of the development is supported and it is suggested that it will be beneficial to highways safety. The development is supported on the basis that it will improve visual amenity and be beneficial to wildlife in the area.

50. Four letters of objection have been received in relation to the development. It has been suggested that a site next to a kennel business is an inappropriate place to build 5 no. dwellings due to concerns over noise impact of the development for new residential occupiers and concern of how the development would impact on noise patterns in the area. Concerns are also expressed at siting houses here as dogs such as stray and abandoned dogs etc. can be noisy with unpredictable behaviour. It has been suggested that the development is contrary to planning policy. Concern is expressed over the timing of the traffic and noise surveys which were undertaken in December 2013. Objectors suggest that normal residential activities such as using fireworks in the garden could disturb dogs at the kennels. Concern is expressed over the proposed access arrangements and increase in traffic in and around the site. There is concern for the future of a meadow at the bottom end of the site.

**APPLICANTS STATEMENT:**

51. Mill Road Passivhaus Development has been driven by the goal of demonstrating how housing development can create overall benefits for both people and the environment, providing much needed housing and deploying design innovation to restore a degraded landscape. There are no other examples of Passivhaus construction in County Durham, therefore the development will be a 'first' for the County and for this reason the development should be viewed as 'exceptional'.

52. Future home owners will largely avoid heating bills and will incur dramatically reduced water and electricity bills as these resources will be captured and generated by the houses. This will increase the disposable income of the home owners. In addition, these homes will demonstrate how new housing can be provided without threatening achievement of the County Carbon Reduction Targets.

53. The site is located between Deerness Kennels and the Littleburn Industrial Estate on land described by the Council as previously developed / brownfield land. Both the Landscape and Visual Impact Assessment (LVIA) conducted for the development, and the Council's Landscape section agree that the development will create a net visual

improvement to the location. This will be achieved through use of planting and green roofs that will consolidate and screen the current views of dereliction and the adjacent Kennels complex.

54. The development will include noise reduction measures that will reduce external noise levels from the adjacent kennels by an equivalent of a 100m distance, surpassing the requirements of BS4142. A full Noise Assessment has concluded that following the implementation of proposed noise reduction measures, residual external noise will be 'negligible' and internally the homes will be silent.

55. Should the development go ahead I intend to run a series of open days to establish wider understanding and use of the Passivhaus concept, and how sustainable development might be used to restore degraded landscapes and improve local ecology. In addition, I intend to use the profits from this development to fund the delivery of similar developments around Durham City.

*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://plan-1:8080/IDOXSoftware/IG\\_search?sort=5&dir=asc&page=1&FormParameter1=DM%2F14%2F02141%2FOUT&app\\_id=1002](http://plan-1:8080/IDOXSoftware/IG_search?sort=5&dir=asc&page=1&FormParameter1=DM%2F14%2F02141%2FOUT&app_id=1002)*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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56. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of residential development at the site, Impact upon Amenity, highways issues and other issues.

### **The Principle of the development**

57. The site sits within the City of Durham Green Belt. As such the site is subject to the provisions of Policy E1 of the City of Durham Local Plan and Part 9 of the National Planning Policy Framework. Both local and National planning policies operate along the same lines.

58. The NPPF states that Green Belts serve five purposes - to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration by encouraging the recycling of derelict land other urban land.

59. The National Planning Policy Framework advises that planning authorities should regard the construction of new buildings within Green Belts as inappropriate. Exceptions to this include buildings for agriculture and forestry, outdoor sport, outdoor recreation and cemeteries, extension or alteration of a building or replacement of a building (both subject to limitations) limited infilling in villages and limited affordable housing where in accordance with local plan policy and limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

60. Officers consider openness to be the absence of built development. A development of 5no. dwellings would clearly increase the quantum of built development on the site, therefore having a greater impact on the openness of the Green Belt and the purpose of including land within it of safeguarding the countryside from encroachment contrary to planning policy representing inappropriate development. Bunding and other screening

treatment is also proposed as part of the sound mitigation measures, these element would add further bulk to the development.

61. The NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

62. The document also states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. It states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

63. The development of five residential dwellings does not fit within the listed exceptions and is therefore to be regarded as inappropriate development that would be harmful to the Green Belt. Officers do not consider that any very special circumstances are in existence.

64. Officers have given this matter substantial weight in considering the principle of the development, as required by the NPPF. Officers consider that the principle of the development would be contrary to part 9 of the NPPF and Policy E1 of the City of Durham Local Plan.

65. Alterations to the Green Belt can only be proposed through the local plans process where they are subject to the relevant public scrutiny and inquiry as part of a longer term strategy.

66. Further, Policy E7 relates to development outside of settlement boundaries and is interlinked with Policy H5 in relation to housing. Policy H5 indicates that new housing outside of settlement boundaries will only be appropriate whereby the dwelling is associated with a proven and compelling agricultural or forestry need that cannot be satisfied by existing accommodation. The application is in open Countryside and outside of any settlement boundary, therefore the application is also considered unacceptable in relation to Policies E7 and H5.

67. The site by reasoning of its positioning to the east of the railway line is disassociated from the body of the Langley Moor settlement boundary and Officers question its sustainability in locational terms. Officers consider it likely that residents could feel cut off and would be faced with a relatively un-pleasant walk to access the main body of Langley moor with associated transport and services, particularly on dark evenings or mornings. This suggests that the private car would be likely to be used to access facilities, detracting from the sustainability credentials of the development.

68. Whilst Officers are currently only affording Emerging Local Plan Policy limited weight, the development would likely be contrary to both Policy 14 relating to Green Belt and Policy 15 relating to development on unallocated sites. Guidance in relation to Green Belts echoes that of the NPPF while Policy 15 states that development on unallocated sites needs to be compatible with that adjacent.

69. There is debate as to whether the land represents 'previously developed' land, 'partially previously developed' land or 'largely previously developed' land. Upon final review and consultation Officers consider that the land is partially previously developed. The top part of the site appears well developed with an existing residential bungalow, garage and hardstanding. The lower part of the site although having been subject to some form of development in the form of mesh fencing forming pens would not necessarily appear to constitute previously developed land. The NPPF definition of previously developed land excludes land that was previously-developed but where the remains of the permanent



structure or fixed surface structure have blended into the landscape in the process of time as is the case on parts of the site.

70. The argument however relating to the extent that the site is previously developed is not of high importance and serves to distract from the main issue in relation to principle. The key issue is whether the development would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

### **Impact upon Amenity**

71. Policy U7 of the City of Durham Local Plan states that developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.

72. The supporting text for this policy states that sensitive uses such as dwellings should be sited away from uses that generate levels of noise above recognised acceptable limits.

73. Officers hold significant concerns in relation to the development of 5 no. dwellings immediately next to Deerness Boarding Kennels and Cattery. In Officers experience, Boarding Kennels and residential property do not make good neighbours. Dog barking has been clearly audible at all visits to the site.

74. Officers acknowledge that there are two residential properties in close proximity to the kennels. 'Fremar' sits to the south of the site. In relation to The Garth, Officers understand that this dwelling was occupied by a greyhound breeder who used the site to breed and house greyhounds. Clearly this use and the kennels would have been compatible.

75. Officers acknowledge the efforts of the applicant in relation to noise mitigation at the site. The applicant has submitted a noise assessment which proposes the potential for mitigation measures such as an acoustic bund, acoustic fencing, enhanced sound insulation to windows, walls and roof with sound attenuated ventilation.

76. However, Environmental Health Officers have raised objections to the scheme and have noted:

- It is difficult to determine whether the noise monitoring period would be representative of the noise at the site. (Officers note that the survey was undertaken in December 2013 which may not be the kennels busiest period)
- Concerns over the use of BS 4142 as an assessment methodology
- Noise assessment shows that dog barking is frequent and loud suggesting that statutory noise nuisance would be likely
- Proposed mitigation measures could reduce noise levels although EH officers are not confident this would significantly mitigate the noise to the extent that barking would not be a nuisance
- Mitigation measures are overly engineered and rely on living by such measures in perpetuity, this cannot be guaranteed

77. Whilst Environmental Health officers are primarily concerned with statutory nuisance in relation to noise issues, Planning Officers have a wider remit to consider. Policy Q8 requires that the layout of new development should provide adequate amenity to each dwelling. The issue of the amenity of future residents of the property can be considered widely. Notwithstanding the opinion of the Environmental Health Officer that statutory noise

nuisance would be likely, Officers do not consider it reasonable that occupants would have to live in line with a raft of extensive noise mitigation measures in perpetuity at the site.

78. The planning authority would have no mechanism to ensure that such measures are retained and kept up at the site. Whilst the noise report seems to suggest that certain outdoor areas could be screened from sound issues, Officers would question whether this would be the case for the site as a whole.

79. Another aspect of this is the potential for future occupants of the dwellings to submit complaints about noise from the kennels. The established existing kennel business is well located to serve its purpose, within reasonable reach of a large population area. A valid complaint about statutory nuisance has the potential to adversely impact on the business activities, as environmental health officers would have a duty to seek resolution of the complaint. The development proposed therefore represents a potential threat to the continued successful operation of the business which provides a valuable service to both members of the public through its boarding kennels and cattery and other organisations such as SOSAD which is a charity that rescues and re-homes mis-treated dogs. Further, Deerness Kennels are an established employer in the local area.

### **Highways Issues**

80. Access to the site would be taken from Mill Road next to the road bridge that crosses the East Coast railway line and along a lane to the site.

81. A supporting transport statement has been supplied which outlines highways improvements proposed. A turning head for refuse vehicles is proposed. At the junction of Mill Road and the unadopted lane it is proposed to amend the northern kerb line and to provide white lining to allow two vehicles to pass while entering and exiting the junction. A warning sign and a re paint of a road marking are also proposed. Cutting back of vegetation is proposed to the access lane to allow for two way running of cars, along with dashed white lines to demark a pedestrian space.

82. Highways Development management have carefully assessed the suitability of the proposed upgrade to the access in and around the site and have concluded that this would be acceptable. Officers therefore consider the development appropriate in terms of highways safety and acknowledge that the scheme would offer highways improvement in the immediate locality. It should be noted however, that no problems appear to have been caused by the existing arrangement with no accidents recorded in the immediate vicinity of the site.

### **Other issues**

83. Given the undeveloped nature of the site a Phase 1 habitat survey has been undertaken. The site has been identified as not having significant ecological value and the Senior Ecology Officer has advised that he offers no objection, while noting that the habitat enhancements proposed would provide a net benefit for biodiversity along the riparian corridor of the river Browney. Overall, the granting of Planning Permission would not constitute a breach of The Conservation of Habitats and Species Regulations 2010 as there is unlikely to be any interference with a European Protected Species.

84. Landscape officers have stated that the development could be accommodated in this location which would not have an unacceptable adverse impact upon the landscape quality or appearance of the area of landscape value. They suggest that the proposals would simplify and partially screen the existing visual clutter of buildings and as such would have on balance a slightly positive effect in the medium term as perimeter vegetation developed.

85. However, while there would not be harm to the area of landscape value, Officers consider there would be harm to the openness of the Green Belt and the issues need to be considered separately. The harm to the Green Belt is an overriding matter to which significant weight must be given.

86. Use of the main sewer and a sustainable drainage system are proposed. Northumbrian Water and the Council's Drainage and Coastal Protection team would require the submission of a drainage scheme. No Archaeological interest has been identified at the site.

87. The site is within the Coal Authority 'High Risk' area. A coal mining risk assessment is needed to ensure that the site is, or can be made safe and stable for development although this has not yet been submitted. While ideally these assessments should be submitted upfront it is Council Policy not to invalidate an application if such a risk assessment is lacking. This information can be conditioned and developers are required to submit a coal mining risk assessment via condition upon which the Coal Authority would be consulted and the developer would be required to carry out any necessary remedial measures.

88. The public rights of way section have objected to the application as they have concerns over the indicative position of a building and planting which would appear to block an un-registered footpath and access track.

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## **CONCLUSION**

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89. Officers consider the application contrary to National and Local Planning Policy as the proposal would represent inappropriate development that would be harmful to the openness of the Green Belt. This is a matter to which Officers are required by the NPPF to give significant weight in the decision making process.

90. Officers also consider it in-appropriate to place a residential development directly next to a large and well established kennel business. Environmental Health Officers have noted that the kennels would likely cause a statutory noise nuisance to the development which would lead to a detrimental impact on amenity for any future occupiers of dwellings at the site.

91. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development and carries a presumption in favour of sustainable development.

92. Officers note that the Passivhaus standard is considered a sustainable form of construction. Officers note proposed highways and biodiversity improvements and slight landscape benefits and have afforded some weight to these merits.

93. However, the scheme as a whole, by reason of the harm identified through its inappropriate location would not be considered sustainable taking into account the three dimensions of sustainable development and its need to perform an economic, social and environmental role.

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## **RECOMMENDATION**

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

1. The development would represent inappropriate development within the Green Belt which would harm its openness with no very special circumstances to justify the proposal

contrary to Part 9 of the National Planning Policy Framework and Policy E1 of the City of Durham Local Plan 2004.

2. Development of dwellings on the site would result in a detrimental impact on amenity for any future occupiers due to unacceptable levels of noise and disturbance which would be generated by the nearby established kennel business contrary to Part 11 of the NPPF and Policies Q8 and U7 of the City of Durham Local Plan 2004.

3. The scheme would represent unacceptable housing development outside the Brandon, Brandon Village, Meadowfield & Langley Moor settlement boundary with limited sustainability credentials contrary to Policies E7 and H5 of the City of Durham Local Plan 2004.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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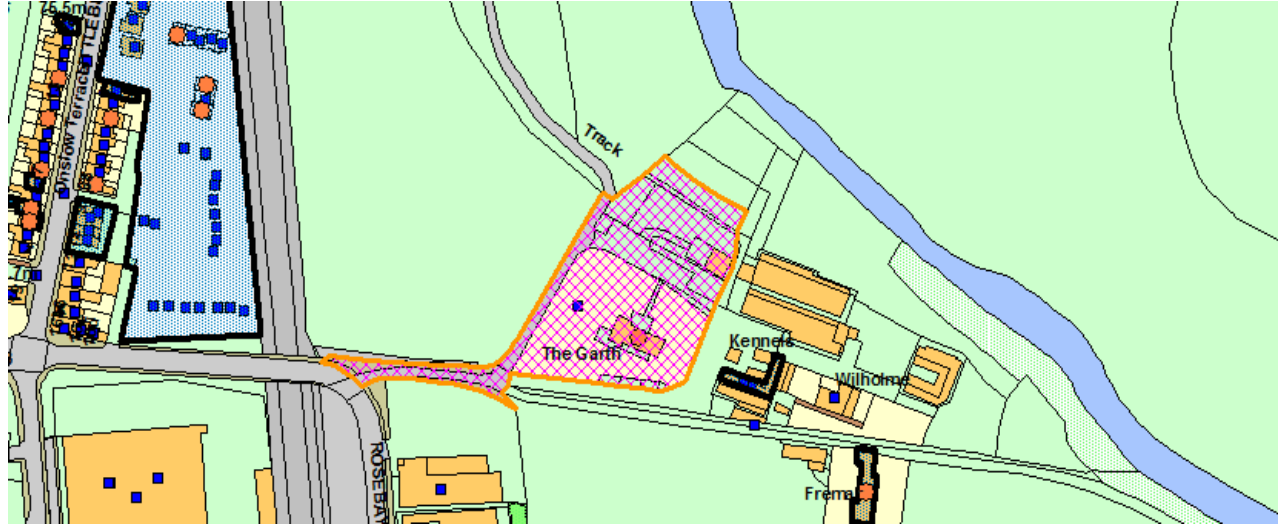
In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. Although the application has not been reported to committee within the 8 week target provided to the applicant on submission due to committee cycles the applicant has been kept updated on progress towards determination and the application has been put forward to the first possible meeting.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
City of Durham Local Plan 2004  
County Durham emerging local plan  
Response from Brandon and Byshottles Parish Council  
Consultee responses  
Internal Consultee responses



**Planning Services**

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Outline application for 5 no. dwellings with all matters reserved except access

**Date 11<sup>th</sup> November 2014**

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION NO:	DM/14/02631/VOC
FULL APPLICATION DESCRIPTION:	Variation of Condition 2 Pursuant to Planning Permission Reference CE/13/00900/FPA to allow continuous opening between 11.00 and 21.00 Monday to Sunday.
NAME OF APPLICANT:	Mrs Gurjit Kaur
ADDRESS:	Cod on the Rocks, 1A Broad Road, Blackhall Rocks, Hartlepool, TS27 4BB
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Allan Fenwick <a href="mailto:Allan.Fenwick@durham.gov.uk">Allan.Fenwick@durham.gov.uk</a> 03000 261 957

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a property that formerly benefitted from separate retail and hot food takeaway units. Following a successful appeal, consent has recently been granted for the premises to trade solely as hot food business across the former two units, with the previous hot food takeaway unit now operating as storage for the main retail unit.
2. The premise is situated at the junction of Broad Road with Hart Crescent. The surrounding area is mainly residential, the classified road frontages being lined with private houses and bungalows and the land to the west containing a former local authority housing estate of which Hart Crescent is the spine road.
3. The land rises quite steeply on the west side of Broad Road. The application site is entered from a raised forecourt about 4 metres wide accessed from Hart Crescent and roughly 2m above the main road level. Following the expansion of the hot food takeaway into the former adjoining shop premise, customers now access the business solely from the Broad Road frontage entrance.

### The Proposals

4. Planning permission is sought to vary the hours of operation condition pursuant to application CE/13/00900/FPA which following a successful appeal granted consent to change the use of 1A Broad Road from retail (A1) to provide an extension to an existing hot food takeaway (A5). The current approved opening times for the business, imposed as a condition of the appeal approval, are 11am until 1.30pm and then from 4pm until 9pm Monday to Sunday. Consent is now sought to open the

takeaway from 11am until 9pm daily, in other words to remain open rather than having to close for the middle part of the day.

5. The application is brought before members given the planning history of the site. The local ward members previously requested that the original application was determined by the Planning Committee unless officers were minded to refuse the application. The application was subsequently refused under delegated powers in November 2013 in accordance with the ward members' wishes. In addition, the implementation of the approval following the successful appeal has been the subject of a number of complaints from local residents about various aspects of the business, including disregard for the specified opening hours.

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## **PLANNING HISTORY**

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6. In 1979 planning permission was refused for the proposed change of use of A1 (a shop fronting Coast Road) to a hot food takeaway. This proposal was then dismissed at appeal.
7. In 1987 an application was made for the change of use of an outbuilding to 1A, which was previously used as a launderette and fronts Hart Crescent, to a hot food takeaway. The applicant proposed opening hours of 11am to 1.30pm and 7pm to 11.30pm over seven days a week. This application was refused on the grounds that the proposal would be materially detrimental to the amenities of nearby residents and would have a negative impact on highway safety.
8. Later that year a further application was made for an identical proposal. Permission was granted on the basis that the opening hours of the unit were restricted to 11am to 1.30pm and 4pm to 9pm on any day.
9. In 1989 an application was made for the alteration of the operational hours of the unit to allow closure of the shop at 11pm on any day. This proposal was refused on the basis that the proposed extension of opening hours could be detrimental to the amenities of nearby residents.
10. A further application was submitted in 1989 which again sought to extend the opening hours of the unit to close the shop at 10pm on Saturdays and Sundays. The proposal was again refused on the same basis as the earlier application.
11. In 2001 an application was made to change the use of the shop fronting Coast Road to a hot food takeaway. This application was refused on the grounds that it would be likely to generate amenity problems to adjacent and nearby residential occupiers by way of increased noise, disturbance and potential odour nuisance.
12. In 2013 it was brought to the Local Planning Authority's attention, through an enforcement complaint from a local resident, that the hot food takeaway business had extended into and was operating from the former shop unit. The matter was investigated accordingly and it was concluded that planning permission was required therefore a retrospective planning application was submitted. The application was contentious with local residents who opposed the scheme on a number of grounds. Officers refused the application as it was considered that the intensification of the existing hot food takeaway business would lead to an increased level of activity which would have a detrimental impact on the amenities of neighbouring properties. The applicant appealed the Council's decision. The inspector, whilst mindful of the planning history of the site did not agree that the development would have a serious adverse impact on the amenity of people living in the vicinity with regards to noise



and disturbance therefore allowed the appeal, subject to a condition limiting opening hours.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

13. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
14. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'
15. The following elements are considered relevant to this proposal:-
16. Part 1 - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future
17. Part 4 - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives

*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>*

### **LOCAL PLAN POLICY:**

#### **District of Easington Local Plan**

18. 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.
19. 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.
20. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
21. Policy 111 - Hot food take-away shops will only be approved in town, local or neighbourhood centres and on prestige and general industrial estates provided no serious problems of noise, disturbance, smell, litter and traffic hazards would arise and where it would not adversely affect the vitality and viability of the centre and in the case of industrial estates it accords with policy 105.

**EMERGING POLICY:  
County Durham Plan**

22. The emerging County Durham Plan was Submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:
23. Policy 1 (Sustainable Development) – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
24. Policy 18 (Local Amenity) – Seeks to protect the amenity of people living and/or working in the vicinity of a proposed development in terms of noise, vibration, odour, dust, fumes and other emissions, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.

*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://content.durham.gov.uk/PDFRepository/EasingtonLocalPlan.pdf>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

25. Cllr Crute and Cllr Pounder – A joint letter of objection has been received on the grounds of loss of privacy for the adjacent property, increased levels of traffic and vehicles parking in the area, increase in smells, odours, noise, nuisance and litter and feel that as the opening hours have already been restricted by means of a planning condition these times should be adhered to.

### **INTERNAL CONSULTEE RESPONSES:**

26. Highways Development Management – No highways development management reasons to object to the proposed variation of condition 2 as proposed.
27. Environmental Health – Still pending at the time the report was prepared. The committee will be updated accordingly, but it is considered unlikely that any comments received would affect the recommendation on the application.

### **PUBLIC RESPONSES:**

28. The application was advertised by means of a site notice and by neighbour notification letters. Seven letters of objection have been received from six neighbouring properties raising concerns relating to;
- Highway safety concerns relating to additional traffic and parking at the site

- The surrounding area is residential rather than commercial
- Previous refusals at the site for extensions to opening hours
- Increase in smells, odours and litter
- Loss of privacy
- Visual impact of the development as a result of outside seating

#### **APPLICANTS STATEMENT:**

29. The unit in question previously operated as an unfettered A1 retail unit. The shop operated during daytime hours and to the best of our knowledge there were no restrictions on the opening hours during daytime hours. The previous opening hours, to our knowledge, did not cause any issues by way of detrimental impact on residential amenity therefore it is unnecessary and not reasonable to impose a condition on the opening hours of the hot food operation from the unit during normal working hours.
30. Any concerns about antisocial activities relating to hot food takeaway uses do not generally apply during day time hours. This proposal is not seeking to extend the opening or closing hours of the unit into the night or early morning hours, it is simply seeking an additional 2.5 hours of operation during daytime hours between 13.30 and 16.00. It is not considered that this slight increase in opening hours would give rise to any detrimental or increased impacts on nearby residential amenity. In respect of odour emissions, noise or highway impacts, any change will be 'de minimis' due to the proposed change being during daytime hours at the height of most surrounding activity. Notwithstanding this, Environmental Health and highways had no issues with the previous change of use applications and did not seek to restrict the opening hours during daytime hours therefore there is no basis to restrict the unit's daytime operation.
31. Finally, for the reasons set out above, the slight increase in daytime opening hours will not have a detrimental impact on residential amenity. It is also unreasonable to burden the operation of the small, local business with restricted daytime opening hours unnecessarily.

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#### **PLANNING CONSIDERATIONS AND ASSESSMENT**

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32. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
33. The main considerations in regard to this application are the impact on residential amenity and highway safety.
- Impact on residential amenity
34. The main consideration of this planning application would be whether or not the proposed extension to the opening hours for an additional 2.5 hours daily to allow continuous operation of the hot food takeaway from 11am to 9pm on any given day would have a significant adverse impact on neighbouring properties that would justify refusal.
35. The Council is aware that the business is currently open throughout the day contrary to the planning condition which states it must close between 1.30 and 4pm. A number of neighbouring residents have formally objected to this current application, which seeks permission to allow continuous daytime opening, claiming it has an

adverse impact on their amenities. As part of the original application the Inspector provided a detailed assessment surrounding the impact on amenity with specific reference to the principle of development, the potential for greater customer numbers and the impact of the development in relation to smells, odours, littering and loss of privacy. The current grounds for objection do not raise any further considerations over and above these points. The proposal was assessed against saved policies 1, 35 and 111 of the Easington Local Plan as well as paragraph 17 of the National Planning Policy Framework. The Inspector concluded that the development would safeguard the living conditions of neighbouring occupiers and therefore allowed the appeal. There has been no significant change in planning policy since the date of this approval. The emerging plan, albeit not adopted, seeks to safeguard amenity similar to existing policies however in any event greater weight should be attributed to the current local plan.

36. Although it is acknowledged that the Council originally recommended refusal of the extension to the hot food takeaway, the Planning Inspector ultimately reached a different conclusion. It is not considered that the current application to vary the opening hours of the now approved and operational business would generate any issues over and above those which have been assessed as acceptable by the Inspector. Interested parties have commented about an increase in smells, odours and litter since the business expanded. Modern extraction systems should be able to satisfactorily deal with any odours generated from the business, a point the Inspector agrees with. Notwithstanding this, planning officers are aware of residents' concerns and that the Environmental Health section will continue to investigate these claims regardless of the outcome of this application. Similarly concerns have been raised about the placement of seating outside the shop front. As this falls within the established planning unit it is considered ancillary and incidental to the A5 use class that the premises have consent for. It is not considered that issues of privacy would be any different from what consent has already been granted for.
37. Objectors have commented that the conditions imposed by the Inspector should be respected however provisions within the planning system allow applicants to seek to vary conditions that were originally imposed on a previous permission, whether granted by the Local Planning Authority or through the appeal process, hence the submission of the current proposal. As part of the original submission the applicant sought to expand his business into the adjacent premises in line with the existing opening hours of the takeaway at that time. It appears to have been on this basis that the Inspector conditioned the hours of operation. The inspector in his decision letter made no specific reference to the need for the premises to close during the middle part of the day. Notwithstanding this point, when planning conditions are imposed they must adhere to six specific tests; necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable. Based on the appeal decision, it has already been concluded that the operation of the hot food takeaway would not have a significant adverse impact on the amenity of local residents that would justify refusal. The current application, therefore, falls to be assessed in terms of whether the extended opening hours requested would result in any additional adverse impacts on the amenities of local residents to an extent that would justify refusal.
38. The proposal would result in additional activity at the site in terms of increased numbers of customers over a longer period of time. The main impacts of this are considered to be more comings and goings of customers and associated traffic movements. These would be occurring at a time of day when many residents are likely to be out at work, and when the adjacent Coast Road will still be busy with traffic. Any increased activity would be seen in this context, at a time when it would

not be reasonable to expect the levels of peace and quiet more typical of an evening. It is noted that the applicants are not seeking to extend the 9pm closing time.

39. Overall, it is not considered that additional day time activity has the same degree of adverse amenity impact as evening or night-time activity. On the basis that the earliest opening and latest closing times are being maintained in accordance with the inspector's suggested conditions, there are not considered to be grounds for refusal in terms of adverse impact on residential amenity.

#### Highway safety

40. Saved Policy 1 of the Local Plan requires that development proposals achieve an acceptable means of access onto the wider highway network, this is replicated in policy 36 of the Local Plan. Furthermore, policy 35 states that development should have no serious adverse effect on the amenity of people living in the vicinity of the development in terms of traffic generation.
41. Neighbouring residents have raised concerns regarding highway safety particularly in relation to the potential for additional traffic movements and car parking issues that could arise as a result of the extended opening times. These matters were addressed by the Inspector as part of his assessment of the original application for the change of use of the premises. He noted that as a result of previous concerns over congestion created by on-street parking in the vicinity, works have been undertaken by the Highways Authority to apply double yellow lines to restrict parking on junctions close to the site. Although mindful of the objections received from interested parties over parking congestion and resultant safety issues from inconvenient parking the inspector identified a significant extent of on-street parking capacity close to the site. Furthermore, with regard to noise and disturbance created through additional traffic generation to the site he did not consider that this would generate an unacceptable effect on the amenity of neighbouring properties given the location of the development adjacent to a busy classified road, such that movements would blend in with the existing noise environment. The proposed extension of opening hours is not considered to alter that position.
42. If allowed the variation of condition requested would effectively allow the A5 use to operate for an additional 2.5 hours in the afternoon and in consideration of the Inspector's comments it is not considered that there would be any adverse highway or traffic implications as a result of such a variation. Furthermore, the Highways Development Management officer has not objected to either this or the previous planning application.

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## **CONCLUSION**

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43. It is not considered that the proposed variation of condition 2 to allow the applicant to operate for an additional 2.5 hours during the afternoon on any given day of the week would raise any significant issues of amenity or highway safety considerations that have not already been addressed through the granting of consent for the original application.
44. When applying conditions, decision makers need to be mindful of the six tests. Given that the hot food takeaway has already been considered as an acceptable use during the hours of 11am until 1.30pm and 4pm until 9pm it is not considered reasonable or necessary to maintain the restriction on the hours of operation during the day.

45. Accordingly, the proposal is considered to be acceptable, subject to a revised condition limiting the opening hours to 11am to 9pm. It is also considered appropriate to apply the condition restricting use of the adjacent unit, as imposed on the recent approval.

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## **RECOMMENDATION**

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

1. The premises shall not be open to customers outside the hours of 11am to 9pm Monday to Sunday.

Reason: In the interests of the amenities of neighbouring occupiers and to comply with saved policies 1 and 35 of the District of Easington Local Plan and Part 7 of the National Planning Policy Framework .

2. The building identified as 'Hot Food Takeaway Preparation/Storage' on Drawing Number 535.02 dated August 2013, shall be used for those specified purposes only in association with the hot food takeaway hereby approved, and shall not be used as additional or separate Use Class A5 retail premises open to customers.

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

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In dealing with the applications, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within the 8 week target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans
- Design and Access Statement
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



**Planning Services**

**Variation of Condition 2 (hours of operation) pursuant to CE/13/00900/FPA change of use from retail (A1) to provide an extension to an existing hot food takeaway (A5) (application allowed on appeal (ref-APP/X1355/A/2213410) - Cod on the Rocks, 1A Broad Road, Blackhall Rocks, Hartlepool, TS27 4BB**

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**Comments**

**Date. 11 November 2014**

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