



Area Planning Committee (Central and East)

Date Tuesday 14 April 2015
Time 1.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Last Meeting held on 10 March 2015 (Pages 1 - 14)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/14/03713/FPA - Land at Mayorswell Close and Kepier Court, Durham, DH1 1JU (Pages 15 - 38)
Erection of 4 new buildings and restoration of Kepier House for use as 214no. bed student accommodation and associated landscaping.
 - b) DM/15/00287/FPA - Woodland Barn, Darlington Road, Durham (Pages 39 - 50)
Holiday Cottage and Café.
6. 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

2 April 2015

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, J Robinson and K Shaw

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in Council Chamber, County Hall, Durham on **Tuesday 10 March 2015 at 1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors A Bell, H Bennett (substitute for Councillor J Clark), P Conway, M Davinson, D Freeman, S Iveson, J Lethbridge B Moir and J Maitland (substitute for Councillor K Shaw)

1 Apologies for Absence

Apologies for absence were received from Councillors G Bleasdale, J Clark, K Dearden, C Kay, A Laing, R Lumsdon and K Shaw.

2 Substitute Members

Councillor H Bennett substituted for Councillor J Clark and Councillor J Maitland substituted for Councillor K Shaw.

3 Minutes

The Minutes of the meetings held on 10 February 2015 were confirmed as correct a record and signed by the Chairman.

4 Declarations of Interest

There were no declarations of interest.

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

Prior to consideration of the agenda business, the Solicitor took the opportunity to advise the Committee on the current status of the County Durham Plan and to clarify the situation further to a request to call in referrals.

In relation to the County Durham Plan the Committee was advised that following the conclusion of Part 1 of the Examination in Public of the County Durham Plan, the Council was now in receipt of the Inspectors Interim Report.

The Inspector had indicated that at present, he considered the draft County Durham Plan to be unsound. As such, officers were currently considering a range of options, however a firm decision was yet to be made.

The Committee was advised that for the present time the Council was taking the view that no weight should be afforded to the County Durham Plan in the assessment of planning applications. There were indeed competing opinions as to how much weight should be afforded to the Plan and it would not be legally wrong for Members to afford limited weight to certain policies of the Plan, however the official view remained that no weight should be given to the County Durham Plan.

The Committee was aware that a request had been made to the Secretary of State to call in the applications on the meeting agenda. The Solicitor advised that this was a matter for the Secretary of State to decide on. Officers had spoken with the National Planning Casework Unit which had advised that the Authority should continue with the meeting and report the Committee's decisions after the meeting. Officers would then delay in issuing any decision notices until the National Planning Casework Unit had the opportunity to consider the decisions.

a DM/14/03708/FPA – Land to the south of New Ferens Park, Belmont Business Park, Durham

The Committee considered a report of the Senior Planning Officer regarding a new car showroom with ancillary service workshop, external forecourt and parking, offices and a café at land to the south of New Ferens Park, Belmont Business Park, Durham (for copy see file of Minutes)

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. The Senior Planning Officer advised of late amendments to be made to the application, advising that as it was no longer considered appropriate or necessary, condition 6 would be removed should the application be approved.

Councillor B Moir advised that as local Members for the Belmont division, he and Councillor Conway regularly raised issues regarding traffic movement in the area and then before them at the meeting was an application which would inevitably mean more cars in Belmont. He stressed that it would be imperative that transporters loaded and unloaded strictly within the curtilage of the garage premises and not on the main road. In stressing that point, Councillor Moir moved that the application be approved.

Councillor Conway seconded the motion for approval as the application was consistent with land use in the Belmont area, though he strongly reiterated the point raised by Councillor Moir regarding transporters.

RESOLVED:- “That the application be approved subject to the conditions detailed within the report, with the exception of the removal of condition 6”.

b DM/14/03713/FPA – Land at Mayorswell Close and Kepier Court, Durham, DH1 1JU

The Committee considered a report of the Senior Planning Officer regarding the erection of 4 new buildings and restoration of Kepier House for use as 214 no. bed student accommodation and associated landscaping at land at Mayorswell Close and Kepier Court, Durham, DH1 1JU (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. The Committee was advised that contrary to the report before them, both Durham University and the City of Durham Trust had submitted letters of objection to the application.

Councillor R Ormerod, local Member, addressed the Committee. He was against the proposals, stating that the development would be in a primarily residential area. While there had been students living in the area some years earlier, the Committee were advised that they had been post graduate students, many of whom had families and so fitted in better with the surrounding residential area. Should the application be approved, Councillor Ormerod advised that the population balance in the area would be dramatically affected. While he was not against a suitable housing development being proposed for the area, he could not support a student accommodation application.

Councillor Ormerod advised that some 2000 student beds had already been given planning approval, yet Durham University were only predicting an increase of 500 students up to 2020. While Policy 32 of the emerging County Durham Plan was relevant, it was noted that the future of the Plan was not clear. Councillor Ormerod therefore called for the application to be deferred until a decision had been made regarding the future of the County Durham Plan.

Mr W Williamson, local resident, addressed the Committee. He advised that he lived directly next to the block at Mayorswell Close. He stated that the NPPF stressed 3 main criteria for development, that development should see a mix of home types, strengthening communities and strengthening a competitive economy. Mr Williamson felt that the application failed all 3 criteria.

Students only inhabited an area on a temporary basis and so did nothing to build and strengthen local communities. He felt that social cleansing would accelerate and the character, heritage and amenity attributes of the area would be adversely affected. Indeed Mr Williamson advised that most residents could expect a serious loss of amenity should the application be approved.

Mr H Dowdy, representing Durham University, addressed the Committee to speak in objection to the application.

Members were advised that the University's letter of objection dated 5 February 2015 anticipated that the Planning Inspector's Interim Report in respect of the County Durham Plan, would lead to a robust policy on Purpose Built Student Accommodation.

As that was not the case, Ms Dowdy advised that the University hoped that the application could be deferred for consideration at the same time as the applications in respect of the County Hospital Site, Claypath, Berensden Laundry and The Gates, so as to ensure consistency in the decision making process.

Furthermore, Ms Dowdy advised this would allow for proper scrutiny of the student number forecasts and the probability that there would be an oversupply of bed spaces. It would also give Members the opportunity to consider whether student accommodation was the best use of several economically important brownfield sites. It would also allow consideration of the impact of such use and form of development on the World Heritage Site and the desire to achieve a balanced city centre community.

Ms J George, local resident, addressed the Committee. She advised that the decision of the Committee would have an impact on the quality of her life and she urged Members to refuse the application or to defer consideration until the future of the County Durham Plan was known.

Ms George stated that the developer was out to make a profit from a development that was not required and she strongly believed that the site could be put to better use. Local amenity would be compromised and she advised that many local residents had concerns relating to noise and disturbance.

Ms M Johansen, local resident, addressed the Committee. As she lived close to the development site, she was particularly concerned about being overlooked. While the separation distance between properties might be 21m, Ms Johansen explained that the topography of the site would mean that students would have uninterrupted views into her home.

Members were advised that the applicant had been aware of those concerns and had originally offered appropriate mitigation in relation to the window designs on Block 4. However when the final plans had been revealed it was clear that no appropriate alterations had been made to the proposed design. As such she requested that should Members be minded to approve the application, then a condition be added to require opaque glass or angled windows in the blocks.

Mr P Gillespie, applicant, addressed the Committee. Members were advised that the previous use of the site had been student accommodation and that in planning the development, the Planning Inspectors report of 2007 had been used to influence the detailed design configuration.

In terms of design, the proposals sought to add to the quality of the area with the use of materials and the use of high and acoustic insulation would mitigate against noise.

No parking was to be provided which would mean the development would not generate any additional traffic and through landscaping regeneration and the addition of mature trees, the issue of overlooking could be mitigated. Furthermore protected species would be cared for.

Mr Gillespie stated that purpose built student accommodation could be managed much more effectively than HMO's and as such any issues related to students could be reduced significantly. Students would be talked to regularly regarding having respect for the surrounding area and Members were advised that any incidents would be dealt with promptly and that neighbouring residents would be provided with appropriate contact details for reporting any incidents.

Members were assured that there would be no first year students housed at the accommodation and the site would benefit from CCTV, adequate lighting and links with the Police.

The Solicitor took the opportunity to reiterate his earlier comments that no weight should be given to the County Durham Plan at this time and this point was emphasised by an officer from the Planning Policy team.

On the issue of need, Councillor Lethbridge sought clarification from the University as to the predicted number of student beds which would be required up to 2020.

The Planning Policy Officer advised that from a planning policy point of view, the NPPF did not require a need test for student accommodation. The NPPF promoted a significant boost in the supply of housing and the choice of homes and so student accommodation was considered part of that. Furthermore in terms of the saved City of Durham Local Plan, there was no numerical limit on the number of student beds.

Ms H Dowdy clarified that in general terms the University anticipated a growth of 500 students up to 2019/20 and reminded the Committee that there was an outstanding application at Mount Oswald.

Councillor Freeman stated that he did not dispute that the site would benefit from development, but noted that the previous use had been for post graduates, which was different to the housing of 240 undergraduates.

In the past 2 years there had been approval of 2000 bed spaces and there were some 2000 more in the planning process, yet the University only predicted 500 additional student beds required up to 2019/20. To not consider demand was unacceptable.

Councillor Freeman referred to paragraphs 105 and 106 of the report and stated that while the officer acknowledged that there would be a dense concentration of students, it seemed that issued was not then addressed.

Councillor Freeman cited Policy 32 of the County Durham Plan and stated that the application did not comply with it as there would be 50% student accommodation in the area. He highlighted that the Planning Inspectors critique of Policy 32 was that it was not actually strong enough, as such Councillor Freeman predicted that any future policy would need to either reflect Policy 32 or actually be stronger.

In terms of the size of development, Councillor Freeman highlighted that blocks 1, 2 and 3 would actually overlook neighbouring properties at a distance less than 21m and that block 4 would overlook residents of a nearby street, therefore all 4 blocks

failed to meet separation distance requirements. As the plans were for properties of 3-3.5 storeys, overlooking would be inevitable and such properties were too large for the area.

In referring to Policy 18 of the County Durham Plan, which focused on residential amenity, Councillor Freeman highlighted that the Inspector had no issue with the policy, so suggested that if not able to cite policy 32, then policy 18 could be cited as a reason for refusal.

In concluding Councillor Freeman stated that he supported the suggestion to defer the application until such time as a decision had been made on the County Durham Plan, otherwise he felt there were grounds to refuse permission.

Councillor Conway also considered deferral of the application based on the issues surrounding the County Durham Plan and the differing opinions as to how much weight should be given to it.

In terms of need and demand, while he acknowledged that these were not material planning considerations, he appreciated the confirmation from the University as to the predicted growth numbers.

Councillor Conway noted that while the saved local plan provided strong grounds to approve the application, the concerns raised by residents could not be ignored. He acknowledged also that the issue was not housing on the site, just that the housing should not be for students.

In referring to the planning history of the site, Councillor Conway highlighted that the application had been refused previously because there had not been sufficient affordable housing on site, however he felt that he would be more inclined to support such an application than the one before the Committee at the present time.

He therefore supported that the application be deferred, otherwise refused.

Councillor Moir stated that he would really have benefitted from having a visit to the site and was disappointed that one had not been arranged. He was aware that there was an eclectic mix of housing in the area but that the residents were stating that there was a lack of amenity such as shops and public transport.

He stated that the postcode analysis was flawed as much of the surrounding area had a DH1 postcode.

He felt that having listened to local residents, it was clear that local amenity would be disturbed and that there would be issues regarding visual amenity with the development of 3-3.5 storey blocks. Furthermore he felt that the character of the area would be detrimentally affected and that this particular area of the city would be spoiled by the introduction of 240 students.

The Senior Planning Officer responded to the points raised as follows:-

- It was accepted that the previous use of the site had been student accommodation for post graduates, however there was no stipulation that it would have to be post graduates on the site now.
- Scale/Overlooking – a mix of storeys was proposed on the site and the levels on the site did change. The site sloped downwards as such the higher storey properties would be at the lower part of the site. The 21m separation distance was achievable across much of the site and could actually be exceeded in some areas. In some parts of the site the separation distance would be slightly below 21m by a maximum of 800 millimetres, however this was considered acceptable and a condition had been suggested to ensure obscure glazing where necessary.
- The Design and Conservation Officer was satisfied with all aspects of the scheme;
- Policy 32 – It was reiterated that no weight should be given to Policy 32 of the County Durham Plan.

Councillor M Davinson queried how much contributions would come from the S106 agreement. He further enquired as to the content of the objection letters which had been submitted by the University and the City of Durham Trust and he sought clarification as to whether other similar schemes had come forward but been deferred.

In response the Senior Planning Officer clarified that the S106 agreement would be subject to negotiation. The University had already presented its concerns earlier in the meeting and the Committee was advised that while the City of Durham Trust accepted the design of the proposed development, it objected to the application on the grounds of need. The Committee was further advised that no other similar schemes had been deferred.

Councillor A Bell moved that the application be deferred, to be considered at a future meeting so as to allow the Committee the opportunity to visit the site. Councillor Conway seconded the motion for deferral. Both Members clarified that the reasons for deferral were to allow the Committee to familiarise itself with the site. Furthermore, due to the differing opinions and advice which was being presented to the Committee in terms of the weight to be applied to planning policies, the Committee needed more time to reflect on the balances, particularly between saved local plan policies H16, H13 and also Policies 18 and 32 of the County Durham Plan.

Upon a vote being taken it was:-

RESOLVED:- “That the application be deferred for the following reasons:-

- The Committee required a site visit in order to familiarise itself with the site before considering the application;
- The Committee required time to reflect on the advice given in relation to the weight to be afforded to various planning policies”.

c DM/14/03871/OUT – Land between 3 Church Villas and 7 Rectory View, Shadforth, Durham

The Committee considered a report of the Senior Planning Officer regarding an outline application for 10 no. properties (all matters to be considered except landscaping) at land between 3 Church Villas and 7 Rectory View, Shadforth, Durham (for copy see file of Minutes).

The Chairman gave the Committee the opportunity to consider two statements which had been submitted by local Members Councillors S Guy and D Hall, both of whom wrote in objection to the application (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout. Members of the Committee had visited the site and were familiar with the location and setting. Members were advised that further letters of objection had been received since the report had been published, as such there was now a total of 74 letters of objection.

Councillor D Bell, representing Shadforth Parish Council, addressed the Committee. He advised that the green space at the site location gave the village character and appeal. The application site was greenfield land and Councillor Bell highlighted that a previous application to develop the site had been refused. Infill development would mean the loss of an ancient hedgerow which added to the character of the village.

Members were advised that there were serious parking issues in the area and were often roadblock issues. The Church opposite the application site had no dedicated parking and so whenever there were ceremonies or services, the already poor parking situation was exacerbated.

Councillor Bell advised that there was local concern that should the current application be approved, that could lead to further development of the land in the future and there were also fears that development would affect the biodiversity of Shadforth beck.

The Committee was advised that 81 new dwellings had already been developed half a mile from the application site and Councillor Bell advised that there was no community need or benefit for the current application to be approved.

Mr I Higginbotham, local resident, addressed the Committee, speaking in objection to the application on behalf of Shadforth Community Association.

Members were advised that there were no fundamental changes to the application since the previous application had been refused, the same number of dwellings were proposed and there were no changes in relation to the layout of the development or the parking issues.

Mr Higginbotham advised that the current application remained contrary to saved local plan policies H3, H4 and H5 and he suggested that there was flawed analysis of the NPPF and the conservation area.

Mr Higginbotham stated that Part 14 of the NPPF restricted the presumption of sustainability and in relation to the conservation area, while there was now an impact assessment, it was felt that this was not entirely sound.

Local residents felt that it was lazy of the applicant to propose the same poor infill design as in the previous application and the lack of a conservation area appraisal was felt to be unacceptable, especially as Shadforth was one of the few green farming areas in the county.

Members were advised that when the conservation area had been designated, the farmland had been an important factor and the Design and Conservation Officer had commented on the value of the farmland.

Mr Higginbotham stated that the application site was an important area of open land as it served to separate two settlements and the gap between the two served to maintain the separate character of the two areas.

There was much local concern that the development would have a detrimental impact on the character of the conservation area and Mr Higginbotham questioned the officers comments at paragraphs 56 and 59 of the report regarding sustainability and vitality. The Committee was advised that there were no local amenities and Mr Higginbotham highlighted that there was no affordable housing element to the application.

Mr Higginbotham further stated that condition 8 was felt to be completely inappropriate and he highlighted that Natural England had not been consulted.

Mr R Newlove, agent for the applicant, addressed the Committee. He stated that there were technical objections to the application and that the only material objection was the impact on the conservation area. If that was considered to be of real concern, then it needed to be considered against the NPPF as to how much impact there would be.

There had already been a conservation area development in the Shadforth area and Mr Newlove argued that the test should be no harm to the conservation area, however the officer stated that the development would complement it.

Mr Newlove queried whether the current scheme was any worse to those which had already been approved. He highlighted that it was incorrect to state that the development would be intrusive on the open land as the development would only encroach on 0.03% of the open land.

The Committee was advised that the scheme had positive benefits, especially as it would integrate rather than segregate local communities.

Mr Newlove called for the application to be approved highlighting that the Council needed to demonstrate that it had a 5 year housing supply. At present, in light of the developments with the County Durham Plan, the Council did not have a 5 year housing delivery plan and would end up in a shortfall situation.

Ms C Dillon, Planning Policy Team, addressed the Committee to provide advice in relation to the 5 year housing supply. Members were advised that the most recent calculation of the housing supply had been for the Examination of the County Durham Plan and at that point it had been confirmed that a 5 year supply could be demonstrated. Based on current evidence, the Council maintained that it did have 5 year supply and as such the Committee should consider the proposed scheme at Shadforth irrespective of that issue.

Councillor Conway stated that the situation had not materially changed since the last submission had been considered and he felt that saved local plan policies H3, H4 and H5 were still relevant. As such, Councillor Conway moved that the application be refused. Councillor Moir concurred, stating that H3, H4 and H5 gave sufficient grounds for refusal.

In response to a query from Councillor A Bell, the Team Leader (Central and East) clarified that the material considerations on the application were policies H3, H4 and H5. In addition to those policies was the NPPF which could also be considered in its entirety.

Councillor Conway did not feel the provisions of the NPPF were sufficient enough to approve the application. There was no affordable housing element to the application despite there being a need in Shadforth and there were also sustainability issues.

Councillor Freeman did not believe that need had been demonstrated, he supported refusal of the application as the development would be in the greenbelt, outside of a village boundary and would not be sustainable development.

Councillor Davinson seconded the motion for refusal.

In response to a query from Councillor A Bell, the Senior Planning Officer clarified that although an outline application, all aspects of the scheme were to be considered apart from the landscaping. The Planning Authority was confident that the scheme was acceptable in design terms and would blend well with the surrounding area.

Councillor A Bell queried whether the NPPF would therefore override policies H3, H4 and H5 given that the design criteria had been met.

The Solicitor clarified that the NPPF stated that the weight afforded to local plan policies was dependant on their consistency with the NPPF. As such, should the Committee feel that H3, H4 and H5 were not consistent, then more weight could be given to the NPPF.

The Senior Planning Officer drew attention to paragraph 72 of the report. The development was contrary to policies H3, H4 and H5 but that needed to be weighed against the benefits of the development. As such, the officer suggested more weight should be given to the NPPF.

The Senior Planning Officer drew attention to the reasons why the previous application had been refused. One of the reasons had been the impact on the conservation area as at that time there had been a lack of details. The Committee

now had relevant details before them, as such that previous reason for refusal had now been overcome.

Councillor Conway highlighted that paragraph 55 of the NPPF supported strong and vibrant communities. He did not believe that the proposed scheme would have that affect in Shadforth. Furthermore the lack of affordable housing meant that there was no sustainability for people in lower income brackets.

Upon a vote being taken it was:-

RESOLVED:- “That the application be refused for the following reason:-

- That the development is contrary to policies H3, H4 and H5 of the City of Durham Local Plan, as the site is located outside the defined settlement boundaries and the development does not constitute the definition of infill development.

d DM/14/03833/FPA – Former Peterlee Building Supplies, Yoden Way, Peterlee

The Committee considered a report of the Senior Planning Officer regarding a 56 bedroom residential care home at the former Peterlee Building Supplies, Yoden Way, Peterlee (for copy see file of Minutes).

The Senior Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout.

In response to a query from Councillor M Davinson, the Highways Officer clarified that the provision of 1 disabled parking space did meet with parking standards and was considered suitable for the type of development.

While acknowledging that the disabled parking requirement met relevant standards, Councillor S Iveson felt it was not a common sense approach given that the development was to provide residential care.

Councillor Bennett raised no objections to the application, stating that there was a real need for such developments.

In moving the application, Councillor Lethbridge stated that the application would bring desirable development on to a brownfield, derelict site. Councillor Freeman seconded the motion for approval, stating that the design was not out of character for the surrounding area and that there was a need for residential care developments.

RESOLVED:- “That the application be approved subject to the conditions detailed within the report”.

e DM/15/00187/FPA & DM/15/00188/FPA – No’s 4 and 16 Wynyard Grove, Gilesgate, Durham, DH1 2QJ

The Committee considered a report of the Planning Officer regarding a change of use C4 student HMO to 7 bed sui generis student HMO, demolition of rear extension and erection of rear extension at no’s 4 and 16 Wynyard Grove, Gilesgate, Durham, DH1 2QJ (for copy see file of Minutes).

The Principal Planning Officer provided the Committee with a detailed presentation which included photographs of the site and a plan of the proposed layout.

Councillor B Moir advised that during the 1940’s and 50’s, Wynyard Grove had been a pleasant residential street, inhabited by many local people. However, today there was only 1 local resident living in the street, as Wynyard Grove had now become a student enclave. He remembered the way that Wynyard Grove and many streets like it, had once used to be before being overrun with students and he feared that the damage had already been done and that residential streets would never recover.

Councillor Freeman commented that there could be an argument to refuse the application based on the provisions of saved local plan Policy H9.

Councillor Conway advised that the reason he had requested that the application be brought before the Committee was to make a point that Wynyard Grove had now become a forgotten area which had lost a lot of family housing and the sense of community which was common in longstanding family residential areas. The number of cars parked in the vicinity also had an impact on the surrounding area, however taking all into consideration, Councillor Conway did not feel there were sufficient grounds to object to the application.

The Principal Planning Officer highlighted that contrary to the report, the City of Durham Trust had submitted an objection to the application.

In relation to application DM/15/00187/FPA, Councillor Lethbridge moved that the application be approved, seconded by Councillor Iveson and upon a vote being taken it was:-

RESOLVED:- “That the application be approved subject to the conditions detailed within the report”.

In relation to application DM/15/00188/FPA, Councillor Maitland moved that the application be approved, seconded by Councillor Lethbridge and upon a vote being taken it was:-

RESOLVED:- “That the application be approved subject to the conditions detailed within the report”.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/14/03713/FPA
FULL APPLICATION DESCRIPTION:	Erection of 4 new buildings and restoration of Kepier House for use as 214no. bed student accommodation and associated landscaping.
NAME OF APPLICANT:	Gilltown Limited
ADDRESS:	Land at Mayorswell Close and Kepier Court, Durham, DH1 1JU
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Background

1. Members may recall that this application was presented to the Central and East Planning Committee on 10th March 2015. Members resolved to defer making a decision on the proposed development, in order to undertake a visit of the site and to obtain further clarification on the status of Policy 32 of the emerging County Durham Plan.

The Site

2. The application site is an unoccupied site located adjacent to Bakehouse Lane and Mayorswell Close in Durham. The site is also known as Kepier Court which is a short distance north east of Durham City. The site falls steeply along a south/north axis with a level change of approximately 19.5m from Bakehouse Lane to the northern site boundary.
3. The site was vacated by Durham University in 2005 and has stood vacant since this time. There are a total of 7 existing buildings on the site, formerly providing student accommodation. Kepier House is located within the centre of the site which is a Victorian, stone built former penitentiary building. The rest of the buildings are modern 1960's structures. Kepier House is not listed however the site does lie within the Durham City Conservation Area.
4. The site is surrounded by residential properties, with Ferens Close and Wearside Drive to the north, Bakehouse Lane to the south, Mayorswell Close to the east and Wear View and Kepier Terrace to the west. The site is immediately bounded by adopted highways to the south and east.

5. Planning permission is sought for the erection of 4 new buildings and restoration of Kepier House for use as 214no. bed student accommodation including associated landscaping. The proposed accommodation would be a mix of both studio and cluster flats with on site amenity facilities for the residents.
6. The site measures 0.7 hectares and the buildings would be laid along the boundaries of the site with a central landscaped courtyard. To accommodate the level differences across the site, the proposed blocks are designed to have a mixture of two storey, three storey and three and half storey heights. There are to be no alterations to the height of footprint of Kepier House. A new vehicular access is proposed to be taken from Mayorswell Court, which will lead into a small parking and refuse area. A Travel Plan has been submitted with this application detailing there will be no provision for student parking on the site. A secure, covered cycle store for 42 cycles is provided within the ground floor of block 3 which will be accessed by a coded entry system.
7. The proposed student blocks are to be of framed construction clad with a limited pallet of high quality materials which will consist of colour acrylic render, facing brickwork, synthetic slate roofing, colour coated standing seam or panelled cladding to gable stair towers and eaves elements. Windows and doors and also rainwater goods will generally be colour coated aluminium.
8. A landscape strategy has been submitted with the application and this seeks to retain the majority of the existing trees surrounding the site. Where trees are proposed to be removed, the introduction of new trees and shrubbery is proposed to mitigate the loss.
9. This application is referred to the Planning Committee as it constitutes a major planning application.

PLANNING HISTORY

10. A separate application to gain permission to demolish the existing buildings has been approved under reference DM/14/03329/FPA.
11. Planning permission for housing has previously been refused on this site in 2006 and the decision was upheld by a Planning Inspector at an appeal. The Planning Inspector had deemed the housing scheme acceptable in design terms and its impact on the conservation area. The Inspector dismissed the appeal on the grounds that the housing scheme did not incorporate affordable housing.

PLANNING POLICY

NATIONAL POLICY:

12. 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.

13. 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'.
14. The following elements are considered relevant to this proposal;
15. *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 21st century.
16. *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.
17. *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 application 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.
18. *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.
19. *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.
20. *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.
21. *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.
22. *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

23. *Policy E3 (World Heritage Site)* Protection seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
24. *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.
25. *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.
26. *Policy E15 (Provision of New Trees and Hedgerows)* states that the Council will encourage tree and hedgerow planting.
27. *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.
28. *Policy E18 (Sites of Nature Conservation Importance)* seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
29. *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.
30. *Policy H7 (City Centre Housing)* seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
31. *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.

32. 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.
33. *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.
34. *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.
35. Policy T20 (Cycle facilities) seeks to encourage appropriately located, secure parking provision for cyclists
36. Policy T21 (Safeguarding the Needs of Walkers) states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
37. 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.
38. 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 area of surface, street and rooftop parking are not considered appropriate.
39. 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.
40. 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.
41. Policy Q15 (Art in Design) states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area

42. *Policy U5 (Pollution Prevention)* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
43. *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.
44. *Policy U11 (Development on Contaminated Land)* sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
45. *Policy U13 (Development on Unstable Land)* will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
46. *Policy U14 (Energy Conservation – General)* states that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY

The County Durham Plan

47. Paragraph 216 of the NPPF says that 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. The County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, then such amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight. Relevant policies and the weight to be afforded to them are discussed in the main body of the report.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

48. *County Highways Authority* has not raised any objections to the proposed development.
49. *City of Durham Trust* have objected to the proposed development with the primary reasons being the need for student accommodation.
50. *Durham University* have objected to the proposed development with the primary reasons being the need for student accommodation.

51. *English Heritage* has raised no objections.
52. *Environment Agency* has not raised any objections.
53. *Natural England* has not raised any objections.
54. *Northumbrian Water* has not raised any objections however has recommended that a condition is imposed for details of surface water disposal from the site to be submitted.
55. *Police Architectural Liaison* has provided advice in terms of security around the site.
56. *The Coal Authority* has not raised any objections.

INTERNAL CONSULTEE RESPONSES:

57. *Archaeology* has not raised any objections subject to the imposition of conditions requiring a programme of archaeological work to be submitted prior to works on site.
58. *Sustainability Officer* has not raised any objections to the scheme.
59. *Environmental Management (Contamination)* has not raised any objections subject to a condition requiring the submission of a contamination site investigation report.
60. *Environmental Management (Noise/light/smoke/dust/odour)* has not raised any objections.
61. *Ecologist* has not raised any objections to the proposed development.
62. *Design and Conservation* has not raised any objections and stated that on balance the proposal presents a good quality development that will change the sites contribution to the surrounding Durham City Conservation Area from negative to positive. The impact on the non-designated heritage asset, Kepier House, would be positive through restoration and refurbishment works, and improvements to the setting. The proposals would also have no adverse impact upon the outstanding universal values of the Durham Heritage Site or its wider setting.
63. *Landscape Team* has not raised any objections to the proposed scheme.
64. *Tree Officer* has not raised any objections to the proposed scheme.
65. *Drainage Officer* has not raised any objections to the proposed scheme.
66. *Targeted Recruitment Training* has provided advice with regards to employment opportunities and training for the proposed development.
67. *Spatial Planning Policy* has not raised any objections to the proposed development.

PUBLIC RESPONSES:

68. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. 27 letters of representation have been received from local residents. The majority of the letters are objecting or raising concerns with the proposed development. One letter of support has been received to the proposals.

69. Objections have been raised with regards to the stability of the land and the potential impact this could have on surrounding residents. Issues have been raised with regards to highway concerns, including parking, congestion, and problems accessing the site.
70. Concerns are raised in relation to potential anti-social behaviour which can arise from students living in the area. Concerns include a potential rise in noise, litter, disruption and congestion.
71. Objections have been raised with regards to the impact the development would have on the conservation area and the appearance of the surrounding area. It is considered by local residents that the proposed scheme is too large in scale and height and would dominate the surrounding area. The design of the buildings are not considered to be in keeping with the area. The loss of trees from the site is considered unacceptable.
72. There are concerns that the proposal would result in the loss of privacy to neighbouring properties and create overbearing and overshadowing impacts with loss of light to some properties. There is also a concern that wildlife in the area would be adversely impacted upon, including impacts upon protected species.
73. It has also been questioned whether there is a need for student accommodation, and a local resident has requested that the University should provide clarity on student numbers. It is felt that there are currently a high number of students already living in the area and there is no need further accommodation. Local residents do accept that the existing buildings used to house students however it has been explained that these were mainly graduates who lived there with families.
74. It has been stated that the proposed development is contrary to local plan policies H16, C3, H13, H7 and emerging County Plan policies 18 and 32. Some residents have indicated that housing should be built on the site. One resident has also raised the requirement for the developer to contribute towards the maintenance of public open spaces in the area.
75. The letter of support for the development indicated that the development proposals have several merits and it is hoped that the proposals are accepted.

APPLICANTS STATEMENT:

76. Gilltown Ltd has sought to redevelop vacant land at Kepier Court with the aim of re-establishing the Student Accommodation use for the site. The site was last used to provide Student Accommodation for students of Durham University and was operational up until 2005.
77. The site is within a sustainable location which will promote pedestrian, cycling and public transport links into the City Centre and Durham University as well as reusing a brownfield site which has been allowed to fall into a poor state of disrepair. As a 'zero car' development, Gilltown Ltd note that the site will only provide car parking for disabled students and members of staff.
78. Based on the positive design and heritage consultee advice from Durham County Council, it is considered that the proposed scheme will have a positive impact on the character and appearance of the surrounding Durham City Centre Conservation and the sites non-designated heritage asset, Kepier House. Additionally, the design of the development reflects the previous application for the site (Ref: 4/06/60537/FPA).

Although this application was refused due to a lack of affordable housing in March 2007, the inspector at appeal considered the design of the proposal is appropriate. Gilltown Ltd considers that the development conforms to the detailed design configuration and massing guidance set out by the Planning Inspectorate.

79. Due to the Student Accommodation use of the scheme, Gilltown Ltd is aware that there may be some concerns for the amenity of surrounding residents. Based on the management arrangements in place, including onsite staff and the tenancy agreement which are detailed within the planning application, it is considered that the proposed development will not have an adverse impact on the neighbouring residents. Similarly, Gilltown Ltd are aware of comments about at the previous Planning Committee about the 'need' for the development. The Applicant wishes to point out that there is no requirement to demonstrate 'need' for student accommodation. Regardless, the proposed development is designed to accommodate existing students living in HMO's as opposed to accommodating any potential increase in students at Durham University.

80. It is considered that if granted planning permission, Gilltown Ltd will bring the site back into beneficial and sustainable use which provides a more pleasant environment for the wider area.

PLANNING CONSIDERATIONS AND ASSESSMENT

81. 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 clarification on County Durham Plan policies, principle of development; impact upon the character, appearance and setting of heritage assets and surrounding area; impact on residential amenity; highway safety; ecology and other issues.

Clarification on County Durham Plan Policies

82. At the last Central and East Planning Committee, Members resolved to defer making a decision on the proposed development to obtain further clarification on the status of Policy 32 of the emerging County Durham Plan. Reference has also been made to Policy 32 of the emerging County Durham Plan by a number of those who oppose this application, citing the restriction it places upon student concentrations. However, the Submission Draft version (April 2014) Policy 32 did not include specific policy on Purpose Built Student Accommodations (PBSA) such as the development proposed in this application. This was subject to objection and subsequent debate at the subsequent Examination in Public (EIP) and as a result the Council proposed a "Main Examination Hearing Change" that introduced specific PBSA guidance. However, the EIP Inspector in his Interim Report considered Policy 32 unsound. Legal advice to the Council is that no weight can now be ascribed to this policy.

Principle of development

83. The application proposes the erection of a purpose built student accommodation development on previously developed land close to Durham City Centre. The proposal would therefore be in accordance with the sustainable principles of the NPPF as the proposal demonstrates an efficient use of land with good access to services and public transport.

84. The local plan has a specific policy, H16, which relates to student halls of residence and forms of residential institutions. 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.
85. 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. The proposal is not considered contrary to Policy H16 as the site is well located in terms of local services and within easy walking distance of bus routes, local shops and University buildings.
86. A primary consideration in determining the principle of development for this scheme, is the fall back position of the site. In this instance, the site already has a lawful student accommodation use and it is recognised that the existing buildings could be brought back into use as student accommodation without the need for any planning permission. Local residents have indicated that the student accommodation was previously occupied by graduates who had families. Whilst this may have been the case, there is no restriction on the site and the existing buildings could be brought back into use and be accommodated by undergraduates. The fall back position of the site having a current student accommodation use is a material consideration and adds weight to the proposed development being acceptable in principle.
87. The NPPF emphasises the need to ensure mixed and inclusive communities mentioned at paragraph 50 and encourages that development establishes a strong sense of place and sustains an appropriate mix of uses as detailed in paragraph 58. The local area does include a mix of uses in the immediate area with residential properties surrounding the site and with some of the properties in the area already used as student accommodation. The local area can therefore be considered to have a mixed use character which could be expected at the edge of a City Centre.
88. Given the above it is considered that the site is sustainably located in an area which has an existing mix of uses; and is previously developed land. The proposals are therefore considered to be in accordance with the presumption in favour of sustainable development as outlined in the NPPF. The development would also be acceptable in principle and in accordance with policy H16 of the local plan. Given the fall back position is that the site and the existing buildings can be accommodated by students without requiring any planning permission, this is a material consideration which supports the principle of development. The proposal would be in accordance with policies E22, H13 and Q8 of the local plan and in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
89. A number of objectors to the proposed scheme have indicated that a need assessment for the proposed development has not been undertaken. Current local plan policies and national policy do not require student developments to justify need. As described in paragraph 82 there was an amended version of Policy 32 of the CDP which introduced a requirement for the demonstration of need for student accommodation however to re-iterate the point made in paragraph 82, legal advice confirms that no weight should be given to this policy.

Impact upon the character, appearance and setting of heritage assets and surrounding area

90. The application site is located within the eastern part of the designated conservation area within a densely developed residential area. The development of the site and the significance of Kepier House is well documented within the detailed supporting heritage statement, rightly identifying the building as being of some significance in the historic development of this part of the conservation area. It is a substantial detached 1850's building originally constructed as Durham County Penitentiary, and because of this use and subsequent character it is a rarity within the city centre. The building has a well preserved building plan, retains some original features with the external character summarised as the mass and solidity of the external walls, rhythm of the openings, and its overall appearance and aesthetic qualities derived from its functional construction.
91. The building is considered to meet the criteria in the NPPF to be considered a non designated heritage asset for its clear evidential, historical, and aesthetic values, particularly as it lies within an area dominated by modern housing. Despite its current deteriorating condition with some erosion/loss of historic fabric it continues to make a positive contribution to the surrounding designated conservation area. The adjacent 1960's blocks and other ancillary buildings/structures are of no historic or architectural interest.
92. In terms of the impact upon the conservation area the principle of redevelopment is to be supported as it has a number of benefits. The sites main heritage feature, Kepier House, would be retained and restored as a historic focal point within the development. The demolition of the later additions to Kepier House would be welcomed as these presently detract from the buildings historic character and appearance and removal would revert the asset back to its original cruciform footprint. The other existing buildings proposed to be demolished to facilitate the new built elements do not make any positive contribution to the conservation area given that they are of a 1960s construction and of no architectural quality, removal is therefore not opposed.
93. Overall, redevelopment of this site has the potential to have a positive outcome in bringing a long term vacant site back into active use, significant improvements in terms of the quality of the built form the surrounding spaces and thus visual amenity, and generally enhancing the sites contribution to the character and appearance of the designated conservation area, which is presently assessed as being negative. The proposals are positive for the future of Kepier House and would not adversely affect the Durham World Heritage Site, its setting or any noteworthy public views towards this asset, due to the lack of interaction and inter visibility.
94. The most recent relevant planning application submitted in 2006 proposed 43 apartments over three blocks with 9 town houses contained within the site. This was recommended for approval but overturned by committee, subsequently the decision was appealed by the applicant but this was dismissed by the Planning Inspectorate. Both the Conservation Officer at the time and English Heritage concluded that the scheme, at a greater density and with some larger scaled blocks than this current submission, would not harm the character or appearance of the conservation area. The appeal was dismissed as the proposal was considered to fail to meet national and local policy to secure the provision of affordable housing however the Inspector did consider the scheme to be acceptable in relation to the impact on the conservation area.
95. The proposed layout is very similar to the previous scheme comprising of four separate blocks arranged around a central landscaped communal area dissected by connecting foot ways and utilising existing access points. The arrangement of the various blocks relates effectively to the sites opportunities and constraints, orientated

appropriately to follow the urban grain and terrain, and providing street frontages to both Bakehouse Lane and Mayorswell Close. They have also been effectively arranged to provide visual links into the site from the surrounding residential area notable channelling views towards the non designated heritage asset.

96. Block 1 appropriately follows the urban grain and has been reduced in plan depth and its general massing in comparison to the previous application so that it now adopts a more domestic scale to the street frontage along Bakerhouse Lane. It would still be higher than some of the adjacent properties but would not be unduly dominant. The incorporation of steps and breaks in the roof form, the breaking up of the façade into defined bays through building line modulation and clever use of varying materials would assist in reducing the blocks perceived scale and massing further, demonstrated in the corresponding coloured visualisation submitted.
97. Appropriately Blocks 2 and 3 would follow Kepier House in being built across the contours of the site while echoing the form of the terraced housing in the area by stepping down the hill. The potential impact would be lessened by the use of two separate blocks rather than presenting a continuous built up frontage. Again the incorporation of height variants and use of materials would assist in reducing the blocks perceived massing, generating a domestic scale, form and rhythm.
98. Block 4 would be of a greater scale and height, larger than the surrounding residential properties and closer to them than the existing blocks which is a concern. But 3/4 storey town houses formed part of the previous proposal, the scale and massing of which was not considered to be contentious. This block also incorporates a number the same mitigating design measures as described above to help break up the massing and lessen its impact, with the design of the side elevation to the properties in Mayorswell Close well considered.
99. Overall, the scale and massing is less than previously proposed, the blocks follow the local urban grain, have an appropriate rhythm and articulation, and outwardly have a domestic expression. This part of the conservation area is mixed in building ages, forms, and character and taken as a whole the proposals would not be considered harmful within this local context.
100. Turning to the detail of the design, the elevations present an uncomplicated cohesive design aesthetic, which successfully integrates both contemporary and traditional components, the strong lines, vertical emphasis and regular rhythm fitting into the streetscapes yet generating a development with its own identity. A theme carried across the blocks are the stair towers projecting outwards from the elevations and extending upwards into the roofscape and the use of cladding, a mixture of long metal strips and coloured acrylic panels, these help to create further breaking elements as well as providing visual interest.
101. The materials proposed for the construction reflect a simple limited material palette with the brick and slate taken from within the conservation area, complemented by mixed areas of cladding, with aluminium windows and doors etc appropriate to the general styling of the development. But should the application be approved then appropriate conditions relating to all building materials proposed for use should be attached to the approval certificate. A condition is recommended accordingly
102. With regards to the proposed alterations Kepier House; the alterations to the north elevation involving the removal of the existing modern unsightly external escape staircase, intrusive associated later door openings, and the insertion of new windows reflecting the existing elsewhere within the building, would result in an

enhancement in the heritage assets appearance. The full height glazing at basement level is not considered to be significantly harmful to the heritage assets overall functional character and appearance, provided it is suitably designed, recessed and detailed, this should be controlled by a condition if the application is approved.

103. Additional works would involve replacement of the timber windows with aluminium. While this is not entirely satisfactory as timber would be the preferred material the major of the existing windows are replacements. Retention and repair is not considered by the applicant to be viable and there is no reason to refute this, and given the buildings unlisted status retention and upgrading of the existing windows or like for like timber replacements would be difficult to specify. But it is suggested that the proposed replacement windows are controlled by a standard planning condition to ensure the preservation of external character.
104. The above along with the proposed internal refurbishment works would result in some loss of historic fabric but this is considered to be outweighed by the fact that the conversion assists in providing a positive and sustainable future for the non designated asset in theory aiding its long term maintenance and general up keep conserving the building in a manner appropriate to its significance and for future generations.
105. An Arboricultural Impact Assessment has been submitted with the application which provides information on which trees on the site are to be retained and which are to be removed. The applicant has also given indications that replacement trees are to be planted to mitigate the loss of those trees which have to be removed. The Council's Tree and Landscape Officers have not objected to the proposed scheme. A condition is recommended for a landscaping scheme to be submitted which would ensure that new planting would be provided on the site. This would ensure proposal would be in accordance with policies E22, H13 and Q8 of the local plan and in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
106. Given the above comments it is considered that the proposed development would preserve the character and setting of the Durham City Conservation Area and would not have a detrimental impact on the appearance of the surrounding area. Overall the proposal is considered to be in accordance with policies E3, E6 and E22 of the local plan.

Impact on residential amenity

107. 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 the concentration of students but also with regards to specific relationships with the closet properties.
108. Policy H16 of the Local Plan states student hall developments that would result in a concentration of students that would adversely detract from the amenities of existing residents will not be considered acceptable development. This is supported by Policy H13 which states that planning permission will not be granted for development that would have an adverse impact upon the character of residential areas or the amenities of residents within them. Paragraph 50 of the NPPF refers to the need to create sustainable, mixed and inclusive communities and paragraph 58 within the design section of the NPPF emphasises the need to create safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion.

109. 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. Whilst such behaviour associated with students often gets exaggerated along with the frequency and magnitude it is important for the confidence of all to have a well-defined management plan. The applicant already operates other student accommodation buildings similar to one proposed in this application and management plans are in operation at these other facilities. A student management plan has been submitted with this planning application. This management plan would implement the following key measures on site:

- Onsite adult management at all times
- ANUK registered management company
- Operating both University Code of Conduct and ANUK Code of conduct
- Total site coverage by CCTV
- Secure by Design accreditation and liaison with Police
- Regular meetings between staff and students to encourage respect for the neighbours and their right to peaceful enjoyment of their environment.
- Meet our students sessions – residents can establish contact, a personal relationship builds responsibility and understanding
- All entrances to the residences are within the courtyard (not facing the streets)
- All deliveries and collections managed within the site not from the roadside.
- Beginning and end of term arrivals and departures managed by appointment over several days all set-down and collection from within the site (no parking on the street near the site) parents will be directed to either pay and display on street parking nearby or town centre parking.
- Neighbours and local residents provided with contact details of the Management team
- Noise curfew for students at 11.00pm
- Refuse managed by staff – via secure refuse areas within the complex.
- Car parking – this is a zero parking scheme (except for staff) – tenants will, as part of their tenancy agreement be signing a specific agreement not to bring or keep a car into Durham. This agreement gives the power to the management following two formal warnings to evict the student.
- Code of conduct: as mentioned above the Management is registered under the ANUK (Accreditation Network UK) which is a national body and the code is more onerous than Durham University's own Code of Conduct. Failure to maintain appropriate standards of the tenant's accommodation and for their behaviour risks losing the registration with the ANUK organisation which is crucial to businesses operating in this sector.

110. It is fair to say that a dense residential nonstudent apartment scheme as well as HMO's will raise from time to time some disruptive behaviour but without the control of a strong management structure relying purely on other legislation. By its very nature all existing controls will exist but in the first instance the management plan and company will be the first recourse and as such this is considered an effective method of controlling such behaviour should it occur, aided by two way communication with community representatives. A condition is recommended to ensure that the management plan is implemented and maintained in perpetuity.

111. 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. Policy Q8 considers that in order to provide adequate levels of amenity and in order to maintain privacy 21m should remain between main windows serving habitable rooms. The scheme has been amended to ensure that 21 metres or over has been achieved in relation to surrounding

neighbouring properties. The separation distance from block 1 to the residential property on Mayorswell Close to the east is set at 16.6 metres. There are windows proposed in the east elevation of block 1 which could potentially have some overlooking issues onto the neighbouring property. To ensure that there is no loss of privacy it is suggested that obscure glazing is installed in to the east elevation windows of block 1. A condition is recommended accordingly. The separation distance between Kepier House and the neighbouring properties to the west are not to be altered however it is recognised that the separation distance is well below the required distances. Kepier House is proposed to be used as a facilities building which incorporates common rooms, study areas, gym and TV room. It is acknowledged that the windows in the west elevation of Kepier House could provide overlooking issues onto the residential properties to the west. Therefore it is recommended that obscure glazing is installed into the west elevation windows of Kepier House. This will ensure there would be no overlooking or loss of privacy. A condition is recommended accordingly. It is also noted that the application site is set at a higher level to some of the surrounding properties in particular the properties to the north and east. Given the distance of the proposed accommodation blocks in relation to the neighbouring properties, it is not considered that the proposal would have an adverse impact in terms of overbearing or overshadowing issues.

112. Concerns have been raised from local residents regarding the stability of the site. A ground investigation report was submitted with the application, and the Coal Authority have been consulted on this report and they have not raised any objections. It is also noted that the buildings will have to be constructed in line with Building Regulations which will ensure that building structures and site foundations are safe and secure.
113. It has also been noted that the application site as it currently stands in a redundant and dilapidated state attracts anti-social behaviour from trespasses onto the site. A local resident has raised issues with the current state of the site and the anti-social behaviour which occurs on the site and for that reason the local resident is in support of the proposed development. The redevelopment of the site does provide clear benefits in removing a dilapidated site which currently attracts anti-social behaviour.
114. In conclusion there are no objections to the proposed development on the grounds of harm to residential amenity, either with regards to the influx of the number of students to the site nor with regards to specific relationships between the site and the nearest properties. The proposal is therefore considered to accord with policies H16 and H13 of the Local Plan as well as not being in conflict with the aims of policy Q8 to safeguard the amenity of existing and proposed occupiers.

Highway safety

115. The proposed development provides a layout which incorporates a total of five car parking spaces (including two disabled bays) which are to be used for visitors and staff.
116. The site is in an accessible location where access to sustainable transport modes is good. It is within reasonable walking and cycling distance to the city's main public transport hubs and close to the city centre and university amenities. It is located within the County Council's Controlled Parking Zone (CPZ) for Durham City in which parking is restricted to permit holders or pay and display charges. No permits would be issued for occupiers of the development to allow on street parking. The location of the site within the CPZ and the limited on site parking provision will discourage use of student cars.

117. The applicant's transport consultant has considered both traffic generation and parking demand for the development when submitting their transport assessment. It is estimated the existing student accommodation on site, when in use, generated approximately 60 two way trips per day. The limited parking availability will result in most trips being by staff, disabled students or service deliveries. The County Highways Officer considers it is likely that no significant increase in vehicular trips over and above the previous use will be generated.
118. The proposal indicates that there would be 2-3 staff working in the communal building. The scheme proposes a total of five car parking spaces which includes two disabled bays. The Council's parking standards for student accommodation within the CPZ would require 1 space per 5 members of staff and space for disabled persons. No space is required for the general student populace in a city centre development of this nature. On street parking control will ensure the site operates with minimal demand for student parking.
119. It is proposed that a total of 43 cycle parking spaces will be provided in the form of Josta two-tier cycle racks which will be located in three cycle store areas (with level access) in the basement of buildings with secure entry. This level of provision is welcomed although two tier cycle racks are difficult for users and single tier provision in the form of Sheffield Stands is the simplest and preferred option. The level of provision is in accordance with the Council's standard for student residents, however no cycle parking provision is provided for visitors. In accordance with the Council's standards 1 space per 20 students should be provided for visitors, which amounts to 11 spaces. The spaces should be at or close to entrances to individual blocks. A condition is recommended for cycling parking provision to be submitted prior to development starting on site.
120. A management plan has been submitted which puts in place a plan for start and end of terms to accommodate student arrival and departures by use of the 5 parking spaces on site. No indication has been given as to where the displaced parking will be located or the impact this will have on the disabled bays. Displacement would need to be made to City Centre off street car parks. The Highways Officer has also indicated that emergency access for the development can be achieved from Bakehouse Lane and Mayorswell Close.
121. A Framework Travel Plan has been prepared for the development. This framework recognises the need for fully approved travel planning. The Highways Officer has therefore requested that a condition is imposed to ensure an acceptable travel plan is brought forward at the opening of the development. A travel plan is considered essential to promote sustainable travel to the site and between the site and university facilities. A condition is recommended for a final travel plan to be submitted prior to the development being brought into use.
122. Given the above, it is considered that the proposed development would not have an adverse impact on highway safety in the area and the proposal would not be contrary to policies T1, T10, T20 and T21 of the local plan.

Ecology

123. 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.

124. 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. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions the Local Planning Authority must consider a detailed assessment against the 3 no. "Derogation tests" of the Habitats Directive.
125. An ecological assessment of the site along with a bat survey was submitted with the application and this indicated that there are bats present on the site. Mitigation measures are proposed which would ensure that bat roosts are provided within the buildings and ensure that bats will have a habitat in this location. The submitted assessments have been analysed by the County Ecologist. The County Ecologist has confirmed that there are no objections to the findings of the assessment or the proposed mitigation measures. A condition is recommended ensuring that the mitigation measures are adhered too, and this condition is recommended accordingly. The County Ecologist has no objections to the proposed scheme and it is considered that Natural England are likely to issue a license. Subsequently it is not considered that the proposed development would have an adverse impact on protected species or their habitats and would be in accordance with part 11 of the NPPF.

Other issues

126. The County Archaeologist has not raised any concerns with regards to the proposed development however a condition is requested for a programme of archaeological work to be undertaken prior to works commencing. A condition is recommended accordingly.
127. Whilst it is noted that there are some landscaped public areas designed into the proposed scheme, there is no formal open space or public recreational space proposed. In accordance with policies R1 and R2 of the local plan financial contributions towards open space provision within the area can be sought from the developer and this can be sought by a section 106 legal agreement. The Council also encourage the provision of artistic elements in the design and layout of new development. In accordance with Q15 contributions towards public art can also be secured through section 106 legal agreement. It is therefore recommended that development is recommended subject to the signing of a section 106 legal agreement for contributions towards open space, recreational facilities and public art within the near locality. These contributions would be in accordance with policies R1, R2 and Q15 of the local plan.

CONCLUSION

128. The proposed development is considered acceptable in principle as it is sustainably located in an area which has an existing mix of uses; and is previously developed land. The land is located within the defined settlement boundaries and is not allocated for a specific use. The fall back position of the site is material consideration in this application. The site and the existing buildings last use was for

student accommodation, and it is noted that these buildings can be occupied by students without the need for any planning permission. The proposals are therefore considered to be in accordance with the presumption in favour of sustainable development as outlined in the NPPF. The development would also be acceptable in principle and in accordance with policy H16 of the local plan.

129. The proposed development has been sensitively designed and it is considered that the proposal would preserve the character and setting of the Durham City Conservation Area and would not have an adverse impact on the appearance of the surrounding area. Overall the proposal is considered to be in accordance with policies E1, E3, E6, E10, E22, E23 and E24 of the local plan.

130. The proposed development would not create adverse harm to residential amenity, either with regards to the influx of the number of students to the site nor with regards to specific relationships between the site and the nearest properties. The residential amenities of existing and future occupiers of surrounding neighbouring properties as well as occupiers of the proposed development would not be adversely compromised. The proposal is therefore considered to accord with policies H16 and H13 of the Local Plan as well as not being in conflict with the aims of policy Q8 to safeguard the amenity of existing and proposed occupiers.

131. No objections have been received from the County Highways Officer. The site is considered in a sustainable location with good pedestrian and public transport links to shops, services and public facilities. Sufficient parking and drop off/pick up areas have been secured on site and the access to the site is considered acceptable. Cycle parking provision has been provided in safe and secure locations on the site. It is therefore considered that the proposed development would not have an adverse impact on highway safety in the area and the proposal would not be contrary to policies T1, T10, T20 and T21 of the local plan.

RECOMMENDATION

That the application be **APPROVED** subject to the signing of a Section 106 legal agreement to secure the payment of commuted sums towards open space, recreational facilities and public art in the locality and subject to the following conditions;

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

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

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

Plan Ref No.	Description	Date Received
01 A	Site location Plan	06/01/2015
02 B	Site Plan	01/04/2015
10 N	Proposed Site Plan	01/04/2015
12 A	Site Sections AA and BB	06/01/2015
13 A	Site Sections CC and DD	06/01/2015
16 C	Block 1 – Plans	06/01/2015
17 B	Block 1 – Plans	06/01/2015
18 C	Block 1 – Elevations	06/01/2015

19 B	Block 1 – Roof Plan	06/01/2015
20 E	Block 2 – Plans and Sections	06/01/2015
21 B	Block 2 – Elevations	06/01/2015
24 C	Block 3 – Plans	06/01/2015
25 B	Block 3 – Roof Plan and Sections	06/01/2015
26 E	Block 3 - Elevations	06/01/2015
27 D	Block 4 – Plans	06/01/2015
28 E	Block 4 – Plans	06/01/2015
29 D	Block 4 – Plans and Roof Plan	06/01/2015
30 E	Block 4 – Elevations	06/01/2015
31 C	Block 4 – Elevations and Sections	06/01/2015
33 E	Kepeir House Proposed Plans	06/01/2015
34 C	Kepeir House Proposed Elevations	06/01/2015

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

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

Reason: In the interests of the appearance of the area and to comply with policies E3, E6 and E22 of the City of Durham Local Plan.

4. No development shall commence until details of means of enclosures have been submitted to and approved in writing by the Local planning authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policies E3, E6 and E22 of the City of Durham Local Plan..

5. No development shall take place until a detailed scheme for the disposal of surface and 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: In the interests of the amenity of the area and to comply with policy U8a of the City of Durham Local Plan.

6. The development hereby approved shall not be occupied until a Travel Plan conforming to The National Specification for Workplace Travel Plans PAS 500:2008, Bronze Level, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details. Prior to the bringing into use of the development a Travel Plan Coordinator shall be appointed and contact details for this person shall be provided in writing to the Local Planning Authority'

Reason: In the interests of highway safety and to comply with policy T1 of the City of Durham Local Plan.

7. No development approved by this permission shall be commenced until:

- a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and has been submitted to and approved by the LPA;
- b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the LPA;
- c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;
- d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and
- e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

Reason: To remove the potential harm of contamination in accordance with Policy U11 of the City of Durham Local Plan 2004.

- 8. Before the development hereby approved is occupied details of all lighting shall be submitted to and approved in writing by the local planning authority. The lighting shall be implemented in accordance with the agreed details.

Reason: In the interests of residential amenity and to comply with policies EMP11 and H13 of the City of Durham Local Plan.

- 9. Before the development hereby approved is occupied details of ventilation and glazing combinations, and details of proposed plant machinery shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details and permanently retained thereafter.

Reason: To safeguard the residential amenity of neighbouring residents and to comply with policies H13 and Q8 of the City of Durham Local Plan.

- 10. 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) Post field work methodologies for assessment and analyses.
- iv) Report content and arrangements for dissemination, and publication proposals.
- v) Archive preparation and deposition with recognised repositories.
- vi) 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.
- vii) 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.

Reason: To comply with criteria detailed in the NPPF as the site is of archaeological interest.

11. 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 which ensures information gathered in terms of archaeological interest becomes publicly accessible.

12. 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 appearance of the area and to comply with policies E3, E6 and E22 of the City of Durham Local Plan.

13. No development hereby approved shall take place unless in accordance with the mitigation, recommendations and conclusions within the protected species reports, Bat Risk and Activity Survey Report Final2 (dated 17/02/2015) and Extended Phase 1 Habitat Survey (dated October 2014) by Eco North Ecological Consultants.

Reason: To conserve protected species and their habitat in accordance with criteria within the NPPF.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) the glass to be used in the east boundary elevation windows of block 1 and west boundary elevation windows of Kepier House shall be obscure to level 3 or higher of the Pilkington scale of privacy or equivalent.

Reason: In the interests of residential amenity and to comply with policy Q8 of the City of Durham Local Plan.

15. The development hereby approved shall not be occupied until the management methods, approaches and techniques detailed in the submitted 'Management Plan – December 2014' have been implemented and shall thereafter be maintained in perpetuity.

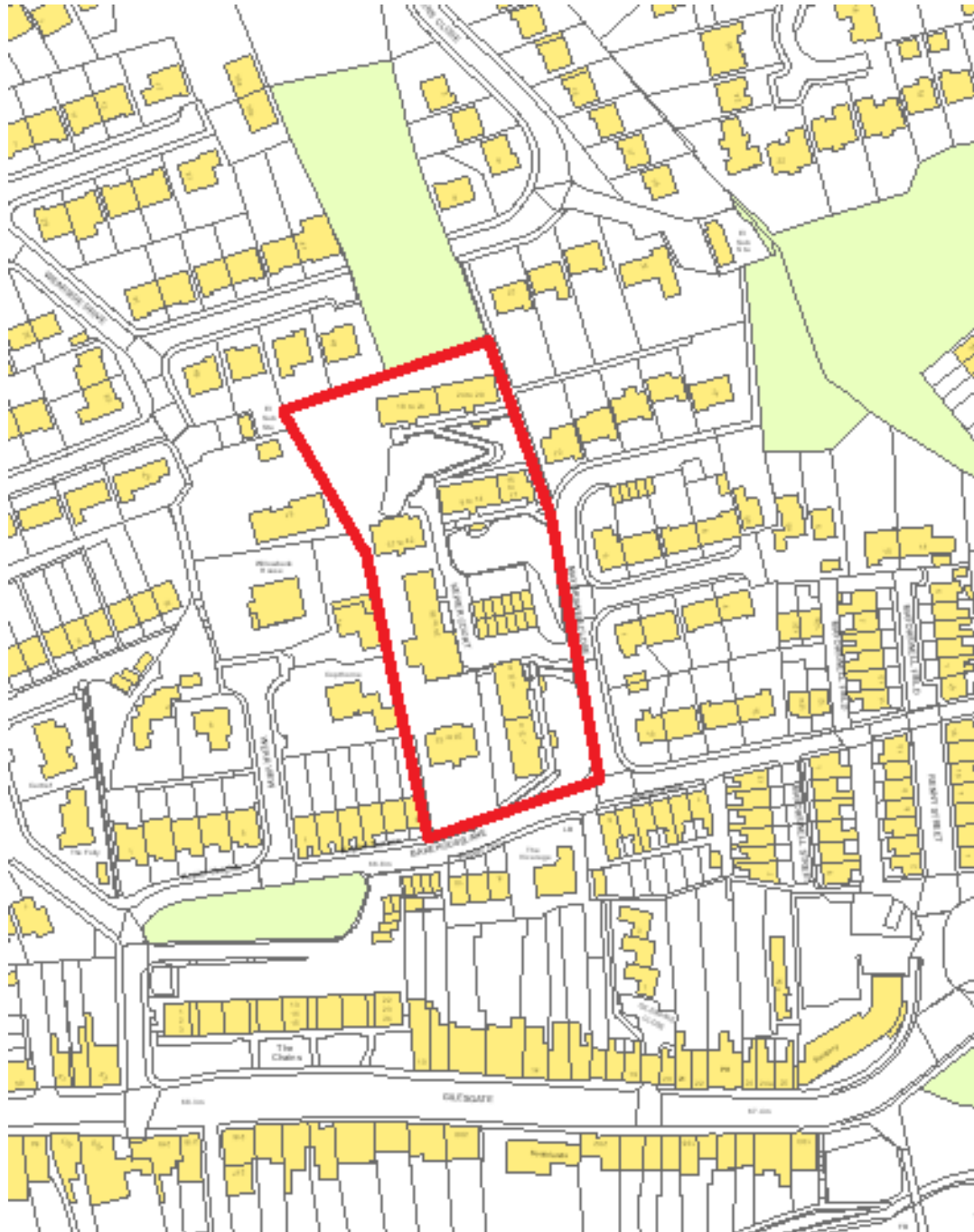
Reason: In the interests of residential amenity and to comply with policy Q8 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance
County Durham Plan (Submission Draft)



Planning Services

Erection of 4 new buildings and restoration of Kepier House for use as 214no. bed student accommodation and associated landscaping at land at Mayorswell Close and Kepier Court, Durham, DH1 1JU

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Date
14th April 2015

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/00287/FPA
FULL APPLICATION DESCRIPTION:	Holiday Cottage and Café
NAME OF APPLICANT:	Mr & Mrs S & P Sanderson
ADDRESS:	Woodland Barn, Darlington Road, Durham
ELECTORAL DIVISION:	Durham South
	Chris Baxter
CASE OFFICER:	Senior Planning Officer
	03000 263944
	chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of a parcel of land to the north of Woodland Barn which is part of the Low Burnhall Farm complex on the outskirts of Durham City. A building used to be situated on the site however this was demolished in the 1970's, and the land is currently grassed over. Woodland Barn, directly to the south of the site, is a residential property owned by the applicant. To the east of the site are the residential properties of Low Burnhall Farm. The A167 dual carriageway section of road is located to the west of the site. The application site along with all the residential properties of Low Burnhall Farm is accessed from the A167 along a single access track. The River Wear is located to the east of the site. The area surrounding the site is a Woodland Trust site and there is a public right of way which runs through the application site. The site is located within the Burnhall Conservation Area, an Area of High Landscape Value (AHLV) and also within the Durham City Green Belt.

The Proposal

2. Planning permission is sought for the construction of a holiday cottage and a café. The proposed buildings are two storey design with an overall footprint of 180 sqm. The proposed cottage has a lounge, kitchen, dining and a snug room at ground floor with 4 bedrooms, a bathroom and 2 en-suites at first floor level. The café building has the café, kitchen, snug room and a disabled toilet at ground floor. The first floor of the café building shows 2 bedrooms, a lounge and a bathroom. A 3m wide gravel access track and 3 car parking spaces are also proposed as part of the scheme.
3. The application is reported to the Planning Committee at the request of the Ward Councillor.

PLANNING HISTORY

4. There is no past planning history in relation to the application site. It is noted that there a structure on the site up until the 1970's when it was demolished. The applicant has indicated that the previous building was over 100 years old and had connections with pit mining and the railway.

PLANNING POLICY

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'.
7. The following elements are considered relevant to this proposal;
8. *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 21st century.
9. *NPPF Part 3 – Supporting a Prosperous Rural Economy.* Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
10. *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.
11. *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.
12. *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.
13. *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:

LOCAL PLAN POLICY:

City of Durham Local Plan

14. *Policy E1 (Durham City Green Belt)* states that within the Green Belt the construction of new buildings is inappropriate and will not be permitted unless it is for purposes relating to agriculture or forestry; essential sport and recreation facilities or cemeteries; replacement of an existing dwelling, re-use or conversion of an existing building; and limited extensions to existing dwellings.
15. *Policy E10 (Area of High Landscape Value)* states that the Council will protect the landscape value in respect of development by resisting development which would have an unacceptable adverse impact upon landscape quality or appearance of the area of high landscape value; and requiring that development respects the character of its landscape setting in terms of its siting, design and scale.
16. *Policy E21 (Historic Environment)* the historic environment will be preserved and enhanced by requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site; and encouraging the retention, repair and re-use of buildings and structures which are not listed, but are of visual or local interest.
17. *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.
18. *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.
19. *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.
20. *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.
21. *Policy R11 (Public Rights of Way)* states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion.
22. *Policy V7 (Visitor Accommodation: In the Countryside)* states that new visitor accommodation in the countryside will be granted if it is an extension to an existing establishment catering for visitors; or it involves the conversion of an existing building.

RELEVANT EMERGING POLICY

The County Durham Plan

23. Paragraph 216 of the NPPF says that 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. The County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, then such amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight. Relevant policies and the weight to be afforded to them are discussed in the main body of the report.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

24. *County Highways Authority* has raised objections to the proposed scheme in relation to the proposed access.
25. *Environment Agency* have objected to the proposals and recommended that the application is refused as there is no assessment of the risks of pollution to the water environment.
26. *Northumbrian Water* have not objected to the proposal.
27. *The Coal Authority* have objected to the scheme as a Coal Mining Risk Assessment has not been submitted with the application.
28. *Woodland Trust* have not raised any objections to the proposed scheme.
29. *City of Durham Trust* have raised objections to the scheme as the proposals would impact on the access. There are concerns that there is not a business plan for the café and it is indicated that proposed buildings would not be on the footprint of the previous structure.

INTERNAL CONSULTEE RESPONSES:

30. *Archaeology* has not raised any objections.
31. *Environmental Management (Contamination)* has not raised any objections but has indicated that further information is required in terms of contamination.
32. *Ecology Team* has not raised any objections.
33. *Design and Conservation Team* has not raised any objections providing certain design amendments are made to the scheme.

34. *Landscape Team* have confirmed that the proposals would have some adverse landscape and visual effects.
35. *Spatial Planning Policy Team* have indicated that the proposed scheme conflicts with the aims of both national and local planning policy and should be resisted.
36. *Public Rights of Way Team* has confirmed that there is a public right of way which crosses the site however this would not be interrupted by the proposed development. A standard informative is recommended to ensure the footpath is not blocked during the development stage.
37. *Drainage Officer* has not raised any objections to the scheme.

PUBLIC RESPONSES:

38. A press notice was issued. Site notices were also posted. Neighbouring residents were notified individually of the proposed development. An objection letter has been received on behalf of four of the residential properties situated in Low Burnhall Farm.
39. The objections raised relate to the inappropriateness of development within an unsustainable location and within the Green Belt and that this may create precedence for new development in this location. It is considered that the development would have an adverse impact upon the conservation area and there are also concerns with regards to traffic, vehicular access and lack of parking. The economic viability of a holiday cottage and café has been questioned with concerns raised as there is a lack of a business plan. This in turn has raised concerns that the proposals may be a 'trojan horse' in order to subsequently gain permission for two dwellings in the Green Belt. Residents are worried that there may be a potential threat to the safety and security of existing properties. Residents have noted that the application description is incorrect, as the plans actually show a first floor flat above the café which is not on the proposed description. Additionally, there are concerns that the submitted site plans are inaccurate or out of date, in particular as some of the buildings are misnamed.

APPLICANTS STATEMENT:

40. The development of the site has been justified by two exceptions to building on the greenbelt. It offers "appropriate facilities for outdoor sport and recreation" and it is also "previously developed land" so satisfies the "Brownfield" exception. Having an industrial past the land has been identified as having potential contamination problems. The clean-up will be paid for by the applicant. It fits in with the NPPF and the Durham Plan.
41. The site will be accessed via the A167 which is currently being upgraded. The access road has previously been described as having "good junction visibility and the vehicle movements are solely left in and left out" by a Highways Development Control Section Manager.
42. The proposal offers facilities for local residents, day visitors and longer term visitors and fits in with the Durham Tourist Management Plan.
43. The design takes into account the surrounding area and is sympathetic to it. It is set away from neighbouring properties and is serviced by a road that does not pass any neighbours. There are no objections from any of the immediate neighbours who would be able to see the building. Hedging will be planted to shield it from view and

to encourage wildlife. It will have a renewable heat source, reclaimed water supply and electric car charging.

44. The café will be accessed by walkers visiting the Woodland Trust and will offer toilets and home cooked refreshments made with locally sourced ingredients. It will be advertised at the Woodland Trust car park and on their website. The holiday cottage will be a high quality fully serviced facility offering transport, daily meals, daily cleaning, child minding, dog minding, fishing licence and cycles.
45. Two full time jobs will be created to run the café and the holiday cottage and local tradesmen and local supplies will be used for the build.

PLANNING CONSIDERATIONS AND ASSESSMENT

46. 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 principle of development; highway considerations; impact upon Green Belt, conservation area and area of landscape value; residential amenity; and other issues.

Principle of development

47. The application site is located within the Durham City Green Belt. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open.
48. Local plan policy E1 (Green Belt) clearly states that the construction of new buildings within the Green Belt is inappropriate and will not be permitted. There are some exceptions which do allow development in the Green Belt and these relate to agriculture of forestry; outdoor sport and recreation; limited infilling; replacement of an existing building; re-use or conversion of an existing building; or limited extensions to existing dwellings. The proposed development of a holiday cottage and a café does not fall within the exception criteria and therefore the proposals are clearly contrary to policy E1 of the local plan.
49. The NPPF also has specific policies in relation to Green Belt development which states that local planning authorities should regard the construction of new buildings as inappropriate in Green Belts. The NPPF does allow for exceptions which are identical to the exceptions in the local plan policy E1, although it does include partial or complete redevelopment of previously developed sites, which would not have a greater impact on the openness of the Green Belt. The applicant has presented arguments that the site is previously developed because there used to be a building situated on the land and therefore would fall within the exception list of the NPPF policy. Whilst it is acknowledged that the site used to have a building on the land, this building was removed in the 1970's and has since been grassed over. Although there are some remnants of a building, the majority of the site is grassed over and it is considered that the site has reverted back to being a greenfield site. Regardless of whether the site is considered brownfield or greenfield, it is clear that there is no building remaining on site therefore any new buildings would impact on the openness of the Green belt and be contrary to the NPPF.
50. Policy V7 of the local plan deals specifically with new visitor accommodation in the countryside, and this policy states that permission will be granted for new visitor accommodation if the proposal is an extension to an existing visitor establishment or

it involves the conversion of an existing building. The proposed development is a new build proposal which is not linked to existing visitor accommodation. The proposal is therefore contrary to policy V7 of the local plan.

51. The principle of development is considered unacceptable as both national and local planning policy clearly restrict new development in Green Belts. The proposal for a holiday cottage and café is not considered to be an exception and new buildings in this location would have an adverse impact on the openness of the Green Belt. The proposal is contrary to policies E1 and V7 of the local plan and part 9 of the NPPF.

Highway considerations

52. The proposed holiday cottage and café would be accessed via the existing single lane track connecting directly off the A167 dual carriageway. This access track supplies all of the properties on Low Burnhall Farm including the application site. The Council's Highways Officer has been consulted on the proposed development. The Highways Officer has raised objections to the proposal indicating that the access track is not suitable for any increase in vehicular movements, and the increase of traffic resulting from the proposed development would be unacceptable in terms of highway safety.
53. The applicant has indicated that it would not be the intention for the café element of the proposals to be accessed by vehicular traffic. The intention for the café would be to attract walkers who are using the surrounding public rights of way. There is a public car park approximately 650 metres to the north of the site, and the applicant has indicated that this car park would be used by visitors to the café. Although the intentions of the applicant may be to restrict vehicles from using the single access track from the A167, it is noted that there would be no mechanism to actually restrict customers of the café from using the access track.
54. The Highways Officer has indicated that in order for the access to be considered acceptable in safety terms, significant improvements to the access with the A167 would be required to support the proposals for a holiday cottage and a café. The access with the junction of the A167 would need to be widened and a deceleration lane for vehicles travelling to it on the southbound carriageway will be required. Subsequently a section of the footway would need to be relocated. It may also be necessary for a section of the single lane access track to be widened to double width to allow for two vehicles to pass each other. The applicant has confirmed that they would be comfortable to undertake these works if required to improve highway safety at the junction. Whilst it is noted that improvements to the access junction would alleviate highway concerns, this would subsequently have an impact on the character and appearance of the Green Belt, conservation area and area of high landscape value. These points will be discussed in the section below.

Impact upon Green Belt, conservation area and area of landscape value

55. National and local policy attaches great importance to Green Belts. The fundamental aim of Greenbelt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Although the applicant has argued there used to be a building on the site, this building was demolished in the 1970's, and the site is now very much open and forms part of the open characteristic of the Durham City Green Belt which was established in 2004.
56. The application site is also within the Burnhall Conservation Area and the Durham Area of high Landscape Value. The main public viewpoints onto the site are from

surrounding high ground to the west, north west to north east within the community woodland, and from the public right of way that passes through the site. The Council's Landscape Officer has described the existing character of the AHLV and the conservation area in this location as being of particular high quality. The introduction of new buildings on the application site would be visually prominent from public viewpoints and would be considered to have adverse landscape and visual impacts. The open character and appearance of the landscape would be also be adversely affected.

57. As discussed in the 'highway consideration' section above, a significant amount of junction improvement works would be required to achieve an acceptable access which would not compromise highway safety. Should these junction improvement works be undertaken this would have a significant impact on the appearance of the AHLV and the conservation area. At present, there are no major junctions along the southbound dual carriageway section of the A167 at this point. The existing access junction is a simple single access point which appears as an agricultural style access. The required junction improvements involve widening the access, installing a deceleration lane and possibly widening part of the lane to two vehicle width. These highway alterations would introduce a much more formal junction which would be visually prominent. At present, the existing junction is relatively unnoticeable, however with the required alterations, this junction would be prominent and would therefore have an adverse impact on the appearance and character of the AHLV and conservation area.
58. The Design and Conservation Officer had commented on the specific design of the buildings indicating that the design could be improved. Alterations have been made to the design and amended plans submitted. The Design and Conservation Officer has not raised any objections to the design of the amended scheme. Whilst it is accepted that the design of the buildings may be considered acceptable this does not out the adverse impact the buildings have on the overall character and appearance of the surrounding AHLV and conservation area.
59. Overall, it is considered that the proposed development would have a significant and detrimental impact on the openness of the Green Belt and an adverse impact on the landscape qualities of the AHLV. The proposal would also not preserve or enhance the character or appearance of the Burnhall Conservation Area. The proposal would therefore be contrary to policies E1, E10 and E22 of the local plan and section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990.

Residential amenity

60. The proposed holiday cottage and café buildings would be situated adjacent to the gable elevation of Woodland Barn which is the residential property owned by the applicant. The nearest neighbouring property is Low Burnhall Farm Cottage situated approximately 50 metres to the east. In terms of separation distance, a 50 metre distance is considered acceptable and the proposal would not have an adverse impact on neighbouring residential amenity in terms of overlooking, overshadowing or loss of privacy. The objectors to the scheme have raised concerns that they are fearful that the safety and security of the existing properties could be compromised as a consequence of increased and additional footfall to the area. Whilst it is agreed that a holiday cottage and in particular a café would likely increase footfall within the area. It is not considered that the increase would be significant enough to adversely compromise safety and security to warrant refusal for this reason. Overall, it is not considered that the proposed development would compromise residential amenity.

Other Issues

61. The Environment Agency has objected to the proposed development because it involves the use of a non-mains foul drainage system but no assessment of the risks of pollution to the water environment has been provided with the application. The applicant subsequently has submitted some non-mains drainage details and the Environment Agency have been consulted on the details.
62. The Coal Authority have objected to the scheme as a Coal Mining Risk Assessment was not submitted with the application. The City of Durham Trust have also objected to the scheme indicating that there is an unsatisfactory, poor and dangerous access from the A167 and that the case for a café in this location is unconvincing.
63. No objections to the proposed scheme have been raised by Northumbrian Water or Woodland Trust.
64. Objections raised by local residents have indicated that these proposals may lead to an application for two dwellings, as the plans would easily lend themselves to conversion quite easily. Also the lack of a business plan for the café provides further concerns that the buildings may be used as residential. It is noted that planning permission is only sought for a holiday cottage and a café. Should the buildings be intended to be used for permanent residential purposes, then a further planning application would be required to be submitted to obtain permission for a residential use.
65. The objection letter raises concerns that the application does not provide a business plan for the café element of the scheme. It is noted that the validation requirements for an application does not specifically require the submission of a business plan. The applicant has indicated that vehicular traffic would be discouraged from visiting the site and therefore the café would be reliant on walkers using the surrounding public rights of way. The submission of a business plan would have confirmed whether the café element would be a viable business.
66. Concerns have also been raised that there are inaccuracies with the submitted plans, in particular buildings and neighbouring properties being misnamed. It is considered that the submitted plans are sufficient to make a full planning assessment of the proposals and to recommend a decision. It has been noted that a first floor flat appears to have been created above the café proposal. The applicant has removed this element of the scheme and has confirmed that the first floor of the café is to be utilised as storage area.

CONCLUSION

67. National and local planning policy clearly states that new development in Green Belts is inappropriate. The proposed development is not considered to be an exception and the proposed buildings would adversely impact on the openness of the Green Belt. The proposed development is unacceptable in principle and would be contrary to policy E1 of the local plan and part 9 of the NPPF.
68. Policy V7 of the local plan deals specifically with new visitor accommodation in the countryside, and this policy states that permission will be granted for new visitor accommodation if the proposal is an extension to an existing visitor establishment or it involves the conversion of an existing building. The proposed development is a new build proposal which is not linked to existing visitor accommodation. The proposal is therefore contrary to policy V7 of the local plan.

69. Durham County Highway Officers have raised concerns with the proposed development, indicating that single track access and junction with the A167 is not suitable to support additional traffic which would arise from the proposed development. The proposed development would have a detrimental impact on highway safety. Significant improvements can be undertaken to the junction with the A167 to alleviate highway safety concerns, however this would subsequently have an adverse impact on the character and appearance of the Green Belt, conservation area and area of high landscape value.
70. Whilst the proposed buildings are considered acceptable in design terms, the proposals still have an adverse impact on the openness of the Green Belt; a detrimental impact on the landscape qualities of the Area of High Landscape value; and would not preserve or enhance the character and appearance of the Burnhall Conservation Area. The proposed development would therefore be contrary to policies E1, E10 and E22 of the local plan.
71. The proposed development would not create any overlooking or overbearing issues in terms of its relationship with neighbouring properties. It is not considered that the development would compromise the residential amenity of neighbouring occupiers.
72. The Environment Agency have objected as no details have been submitted with regards to non-mains foul drainage. The applicant has subsequently submitted this information and it has been forwarded to the Environment Agency for assessment. The Coal Authority have also objected as a Coal Mining Risk Assessment has not been submitted with the application. It is noted that a Coal Mining Risk Assessment of the site can be submitted through a planning condition.

RECOMMENDATION

That Members are minded to **REFUSE** the application for the following reasons;

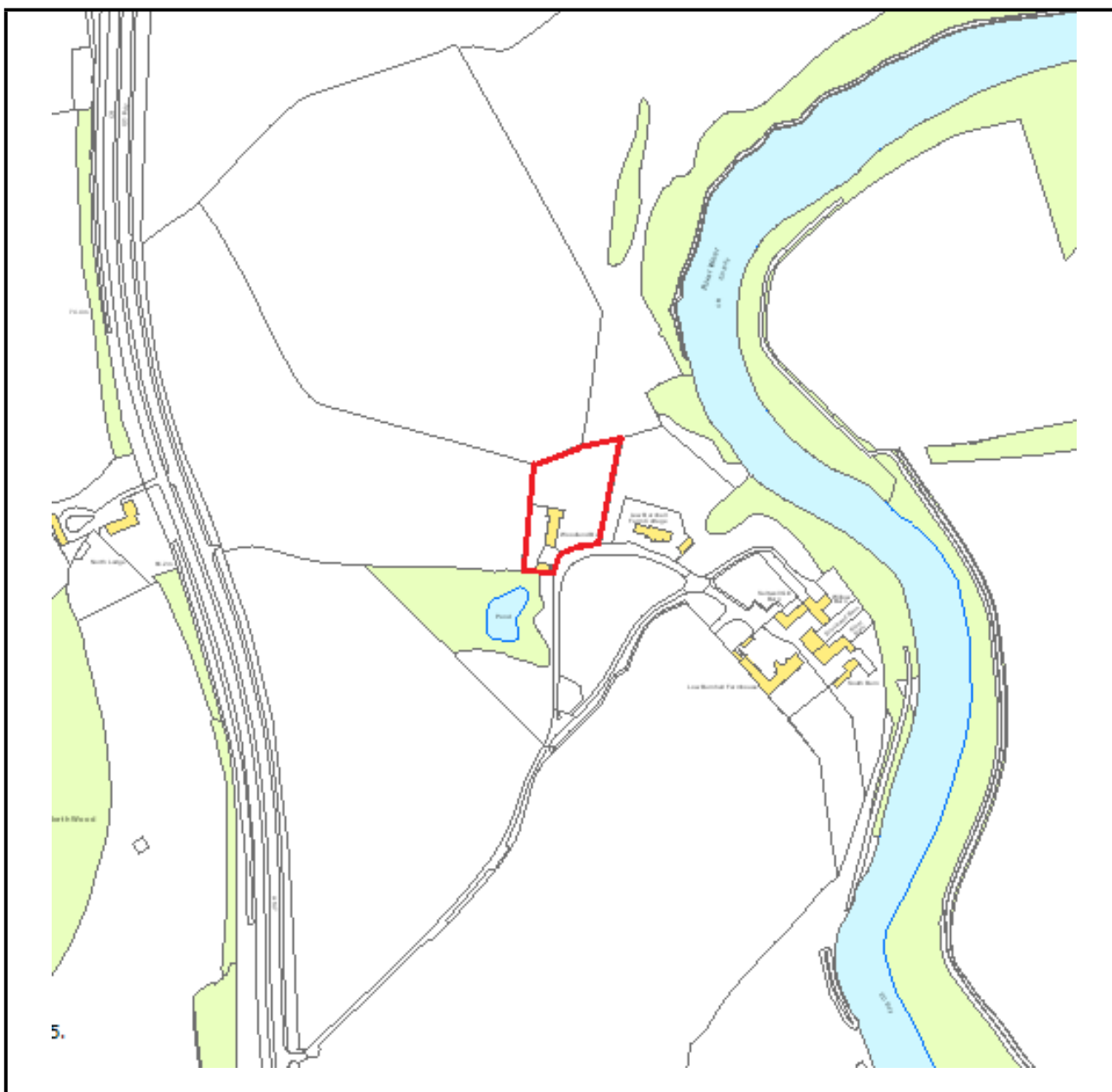
1. The proposed development is contrary to Policy E1 of the City of Durham Local Plan and Part 9 of the National Planning Policy Framework as the proposal is for new development in the Durham City Green Belt which would adversely impact upon its openness.
2. The proposed development is contrary to policy V7 of the City of Durham Local Plan, as the holiday cottage is not an extension to an existing establishment catering for visitors, nor is it the conversion of an existing building.
3. The proposed development is contrary to Policies E10 and E22 of the City of Durham Local Plan as the proposal would not preserve or enhance the character and appearance of the Burnhall Conservation Area and would compromise the landscape qualities of the Area of High Landscape Value.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked in a positive and proactive manner to ensure that the Durham City Green Belt is not compromised.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance



Planning Services

**Holiday Cottage and Café at
Woodland Barn, Darlington Road,
Durham**

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Date 14th April 2015	