



## Area Planning Committee (Central and East)

**Date** Tuesday 14 July 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 9 June 2015 (Pages 1 - 6)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) DM/15/00455/FPA - Durham Cathedral, North Churchyard, Palace Green, Durham (Pages 7 - 16)

Relocate 'The Journey' sculpture from Millennium Place to North Churchyard, Durham Cathedral, widen existing entrance path, alter the surfacing of the path to sandstone setts, relocate two seats and associated lighting.
  - b) DM/15/01689/RM - Land to the north of Willowtree Avenue, Gilesgate Moor (Pages 17 - 32)

Reserved matters application for appearance, landscaping, layout and scale for the erection of 38no. dwellings and open space. Discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT.
  - c) DM/14/00338/OUT - Land at Station Road, Coxhoe (Pages 33 - 50)

Outline application (all matters reserved except access) for up to 50 dwellings.

- d) DM/15/01101/FPA - Land to the Rear of 21 Market Place, Durham  
(Pages 51 - 70)

Demolition of garage units and redevelopment to provide 55 bed student accommodation and associated communal and ancillary facilities.

- e) DM/15/01090/OUT - Land to the south east of Brackenhill Avenue, Shotton Colliery (Pages 71 - 84)

Residential development comprising 44 houses (outline).

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

6 July 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 9 June 2015 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors A Bell, G Bleasdale, P Conway, K Corrigan (substituting for Councillor B Moir), M Davinson, D Freeman, C Kay, A Laing, J Lethbridge and K Shaw

**1 Apologies for Absence**

Apologies for absence were received from Councillors J Clark, S Iveson, B Moir and R Lumsdon.

**2 Substitute Members**

Councillor K Corrigan substituted for Councillor B Moir.

**3 Minutes**

The Minutes of the meetings held on 12 May 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)**

**a DM/15/00702/LB – University Hospital of North Durham, North Road, Durham**

The Committee considered a report of the Senior Planning Officer regarding the demolition of Dryburn House, a Grade II listed building at University Hospital of North Durham, North Road, 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. Members of the Committee had visited the site and were familiar with the location and setting. Members were advised that since the report had been published, more public

submissions had been received, as such there were now 9 letters of objection and 10 letters of support.

Councillor G Holland, local Member, addressed the Committee. He advised that the proposal to demolish Dryburn House contravened part 12 of the NPPF which restricted the demolition of heritage assets and also policies E16 and E23 if the saved Local Plan.

Councillor Holland believed that the County Durham Plan was also relevant, in particular Policy 44, which had survived the Planning Inspectorate examination. He quoted the opening statement of Policy 44 which related to the preservation of heritage assets.

Councillor Holland suggested that there had been a selective management of hospital services by the NHS Trust. He suggested that the increase of 30,000 patients at the University Hospital A & E department was a direct result of the closure of various other A& E departments across the county during recent years. He stated that the Trust must have anticipated the increase in such patients when the decision was taken to close similar facilities at other locations.

The substantial public benefit of the proposals was considered questionable by Councillor Holland, highlighting that the Trust had failed to consider public benefit when depriving them of A & E facilities in Bishop Auckland and Shotley Bridge.

In relation to Dryburn House, Councillor Holland suggested that rather than being demolished, it could be carefully dismantled and then rebuilt in a suitable location such as Beamish. He felt the S106 provision might achieve such relocation and in turn save a heritage asset. He therefore urged the Committee to retain the Georgian mansion at another site should it be minded to approve the application.

Mr J Hillary, Governor of the County Durham and Darlington NHS Foundation Trust, addressed the Committee to speak in support of the application.

Members were advised that there was an unprecedented year on year increase in demand for emergency services across the whole of the NHS. As such, the needs and wants of the people of Durham were not unique. It was now a fact that the existing emergency department at the University Hospital had outstripped its capacity and was currently treating around 60,000 patients each year, double the planned capacity of 30,000. Mr Hillary advised it was wholly unacceptable for ambulances to be left queuing to hand over patients, or worse still, ambulances having to divert to Gateshead or Hartlepool whilst en-route to Durham, because demand had outstripped capacity.

Members were advised that the Trust was seeking to provide an enhanced emergency medical facility in Durham and to do so, it was necessary to increase the footprint of the University Hospital site. Mr Hillary advised that the most suitable option was to expand the current emergency department by building outwards on the ground floor. Whilst other options had been considered, the Committee was advised that such options would have involved too many compromises that would impact on wider patient care at the hospital.

Mr Hillary stated that doing nothing was not an option. Whilst the architectural and historical merits of Dryburn House might be of significant importance, the health and wellbeing of the population of County Durham was arguably of greater importance. Furthermore the need to provide first class healthcare must outweigh the desire to retain a Grade II listed building.

Members were advised that the University Hospital was a vitally important emergency medical facility within the county, providing a service to half a million residents. Furthermore, it had strategic importance in delivery of Durham County Council's emergency contingency plans. Mr Hillary highlighted that there were tangible links between the proposal to expand the Emergency department and the Council's Sustainable Communities Strategy in terms of supporting and strengthening the agendas of being Altogether Healthier, Altogether Better for Children and Young People and Altogether Safer. The new emergency department had to be of the best design and contain the best facilities to give every patient the best possible care and the best opportunity for recovery.

Mr Hillary stated that he would not normally advocate the removal of historical buildings or to diminish the cultural heritage of the county but on balance, sustainable emergency medical facilities would meet the needs of the whole county population, were more important than retaining a listed building.

Mr B Hedley, applicant, addressed the Committee. Members were advised that discussions on the demolition proposals had been ongoing for over a year and Mr Hedley took the opportunity to thank Historic England and the Planning Authority for their cooperation.

The proposals to expand the emergency department would affect all residents of the county. Originally the department had capacity for 30,000 patients, however demand had now increased significantly to 60,000 per annum. It was believed that this was attributable to an ageing population and was a recurring issue nationwide.

At the University Hospital there had been a year on year increase in demand of 3%, rising to 4.5% for the current year. The same situation was also occurring elsewhere in the region.

As such, Mr Hedley advised of the need to reconfigure the whole front of house model at the hospital to accommodate the increase in demand. Redesign would be complex as emergency departments needed to be supported by a range of clinical adjacencies such as X-Ray departments and Intensive Care Units. It was therefore not possible to just develop an A & E department anywhere, the design had to be carefully planned.

Mr Hedley advised that a range of alternative options had been considered, however none had proven viable. Indeed the option to retain only the current facilities would have an adverse effect on ambulance flows and would compromise patient care. As such, it was felt that the public benefit far outweighed any harm to the heritage of the county.

Councillor P Conway referred to a recent application which was considered by the County Planning Committee where the argument had been made that the public benefit of the application significantly outweighed any material considerations.

Regrettably, Councillor Conway advised that he did believe that was the case with the present application and as such supported the proposals. He believed the statement within the NPPF that there should be substantial public benefit to consider removal of a heritage asset, to be very important. The public benefit did outweigh the demolition of Dryburn House, however he wished for the notion of the S106 to be explored before demolition was commenced and in conjunction with conditions 3 and 4.

While the building dated from 1824 and was of some architectural significance, Councillor Conway did not feel it had an overwhelming importance in terms of fabric and design. He also highlighted that the setting in which it had originally been built, no longer existed.

Councillor A Bell echoed the comments of Councillor Conway, stating that at the site visit earlier that day, the building had looked lost and out of character in the grounds of the University Hospital. It was also clear that an extension of the emergency department was necessary. Councillor Bell queried whether the suggestion from Councillor Holland to relocate Dryburn House, was a viable option, as he would support such an option if it were possible.

Councillor C Kay advised that he was completely opposed to the application. Looking at it in a wider context, Councillor Kay advised that the extension to Dryburn Hospital had been developed in the 1990's. In relation to the 60,000 patients now using the emergency department per year, Councillor Kay stated that it was wholly attributable to the closure of such facilities elsewhere in the region. In that regard, he felt the Trust had managed the situation very poorly and that there had been a calculated shift of services to Durham city.

He moved refusal of the application, stating that both saved Local Plan Policy E23 and the NPPF were contravened by the proposals.

Councillor Kay stated that the proposals were a waste of public money, especially when there were perfectly suitable facilities elsewhere in the county.

Councillor Bleasdale felt that she had to support the officer recommendations to approve the application. While noting the architectural merits of the building, she had witnessed the build-up of traffic and ambulances outside of the emergency department on the site visit earlier that day.

Councillor Lethbridge advised that he had been involved with the petition to save the accident and emergency department at Bishop Auckland General Hospital some years earlier. Despite travelling to Downing Street to deliver the petition, it had failed and subsequently the facilities did close down. At the time the message had been that the centralisation of emergency department facilities would provide a better service across the county, however it was clear that was not the case as demand

now outweighed capacity at Durham. It was questionable as to whether this shift had ever been anticipated.

Nevertheless Councillor Lethbridge noted that Dryburn House had become dilapidated and was no longer fit for purpose. The setting it was now within was nothing like it had originally been. He therefore reluctantly felt compelled to concur with officer recommendations and as such moved that the application be approved.

Councillor D Freeman acknowledged the need to increase the accident and emergency capacity at the University Hospital, however believed that the situation had been engineered by the NHS Trust who had taken the decision to close facilities elsewhere. He felt that the public benefit element would actually be best served by the Trust giving consideration to re-opening the accident and emergency facilities at Bishop Auckland.

He therefore did not accept that the demolition of Dryburn House, he believed there was a public benefit in retaining the building and urging the Trust to reconsider its options. Councillor Freeman as such seconded the motion to refuse the application.

In response to a query from Councillor M Davinson, Mr B Hedley advised that because of the heavy supporting infrastructure which was required to support an accident and emergency facility, such as 24 hour specialist services, it was not viable to provide such a service from a smaller hospital. He further advised that the situation had in no way been engineered.

The Solicitor took the opportunity to draw Members' attention to S106 arrangements and highlighted that no works would commence until planning permission was in place for a replacement accident and emergency department, with full details of the programme of works to be delivered.

Members were advised that in relation to the suggestion that Dryburn House be relocated to another site, such an obligation would need to be proven to be reasonable and necessary.

The Area Team Leader advised that while the proposal to relocate Dryburn House was not being insisted on and was not considered necessary or reasonable, it could be discussed further with the applicant.

Mr B Hedley advised that the Trust had previously had tentative discussions with Beamish Museum and there was no real interest in Dryburn House.

The Chairman informed the Committee that a vote would be taken on Councillor Kay's motion to refuse the application, as seconded by Councillor Freeman.

Upon a vote being taken refusal of the application was defeated.

The Chairman informed the Committee that a further vote would be taken on Councillor Lethbridge's motion to approve the application, as seconded by Councillor Bleasdale.

Upon a vote being taken it was

**Resolved:** “That the application be approved subject to the conditions detailed within the report”.

**b DM/14/03100/FPA – 40A Front Street, Framwellgate Moor, County Durham, DH1 5EE**

The application had been withdrawn.



## Planning Services

# COMMITTEE REPORT

---

### APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	DM/15/00455/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Relocate 'The Journey' sculpture from Millennium Place to North Churchyard, Durham Cathedral, widen existing entrance path, alter the surfacing of the path to sandstone setts, relocate two seats and associated lighting.
<b>NAME OF APPLICANT:</b>	Durham Cathedral
<b>ADDRESS:</b>	Durham Cathedral, North Churchyard, Palace Green, Durham.
<b>ELECTORAL DIVISION:</b>	Elvet & Gilesgate
<b>CASE OFFICER:</b>	Susan Hyde, Planning Officer, 03000 263961 susan.hyde@durham.gov.uk

---

### DESCRIPTION OF THE SITE AND PROPOSALS

---

1. The application site is located at the front elevation of the Grade I listed Durham Cathedral which is one of two principal buildings, Durham Castle and Cathedral, that form part of the World Heritage Site. Palace Green offers a rich historic environment combining a remarkable assemblage of historic buildings (almost all listed) of great scale and drama, of rich and innovative architecture, and others of intrinsic importance. These are set within a distinctive and high quality intact medieval townscape and within an exceptional landscape setting. In addition to the Grade I listing and a principal building in the World Heritage Site, the Cathedral also lies within the Durham (City Centre) Conservation Area.
2. The application is to relocate the sculpture the 'Journey' of St Cuthbert that is currently located in Millennium Place. This sculpture is a bronze cast of the original wood carving, (thus being hollow), depicting six monks carrying the open coffin of St Cuthbert. The proposal is to relocate the sculpture onto a path over the northern graveyard that forms the key pedestrian approach to the Cathedral. In addition the path is proposed to be widened, bollard lighting introduced and the existing seats relocated onto the opposite side of the path. The sculpture is constructed in weathered bronze and is 2.3 metres long by 1.2 metres wide and 2 metres high and is set at ground level.
3. The application is being reported to Committee at the request of Councillor Freeman.

---

### PLANNING HISTORY

---

4. Planning consent granted in 2015 for enabling works and repair works to roof structure; drainage and rainwater disposal; masonry and interior decorations.

---

## **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. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
8. The following elements of the NPPF are considered relevant to this proposal;
9. 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.
10. 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, minimising impacts on biodiversity and providing net gains where possible. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated/unstable land.
11. 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.

### **LOCAL PLAN POLICY:**

#### City of Durham Local Plan

12. Policy E3 (World Heritage Site) Protection seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
13. 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.

14. Policy E14 (Existing Trees and Hedgerows) seeks to protect ancient woodland, designate tree preservation orders as necessary, and require development proposals to retain areas of woodland, groups of trees and individual trees wherever possible.
15. Policy E16 (Nature Conservation) requires development proposals, where appropriate, to identify any significant nature conservation interest that may exist on or adjacent to the site, avoid unacceptable harm to such interests and provide mitigation measures to minimise unacceptable adverse impacts that cannot be avoided.
16. Policy E21 (Historic Environment) states that the historic environment of the district shall 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 encourage the retention, repair and re-use of buildings and structures which are not listed, but are of visual 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 E23 (Listed Buildings) seeks to safeguard listed buildings and their settings by only permitting alterations and extensions to listed buildings which are sympathetic in design, scale and materials; not permitting alterations to architectural or historic features which adversely affect the special interest of a listed building; not permitting total or substantial demolition of a listed building; and, not permitting development which detracts from the setting of a listed buildings.
19. Policy E24 (Ancients Monuments and Archaeological Remains) states that scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ, and where preservation in situ is not justified by requiring pre-application evaluation or archaeological assessment.
20. 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.
21. Policy Q15 Art in Design

#### **RELEVANT EMERGING POLICY:**

##### The County Durham Plan

22. 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.

23. The above represents a summary of those policies considered most relevant in the Development Plan, the full text, criteria, and justifications of each may be accessed at: <http://www.cartoplus.co.uk/durham/text/00cont.htm> (City of Durham of Durham Local Plan) <http://durhamcc-consult.limehouse.co.uk/portal/planning/> (County Durham Plan)

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

### **STATUTORY RESPONSES:**

24. Historic England – Have noted that the relocation of the sculpture is to the front elevation of the property and requested the re surfacing of the path is carefully controlled.

### **INTERNAL CONSULTEE RESPONSES:**

25. Design and Historic Environment Officer – Raised some concerns with regard to the Heritage Statement which has now been addressed and considers that the sculpture has a neutral impact on the setting of the Cathedral.
26. Landscape Architects – Have raised no objection to the loss of the tree and no objection to the impact on the landscape setting to the front elevation of the Cathedral.
27. Ecology – Raised no objection
28. Archaeology – Recommend a condition and this will be updated orally at Planning Committee. Awaited

### **PUBLIC RESPONSES:**

29. The application was advertised in the press, on site and in the locality. Representations in support of the application and objecting to the application have been received. A petition with 202 signatures and 13 individual letters have been received in support of the application. A petition with 293 signatures and 35 individual letters of objection have been received. In addition the City of Durham Trust has raised no objection to the proposal and Roberta Blackman Wood MP has written in support of the proposal.

### **Summary of support for the proposal.**

30. The statue is sensitively sited outside the Cathedral

The siting in Millennium Place is no longer appropriate due to the night time economy of the area which leads to the statue having urine and vomit on it.

The current siting is not appropriate as it appears St Cuthbert has been carried from Lindisfarne to visit the library.

The movement of the statue and the works at the Cathedral are all paid for by money still available from existing money in the trust for the sculpture.

The sculptor Fenwick Lawson always made it clear that he'd prefer the statue to be sited near the Cathedral if the opportunity arose.

### **Summary of objections to the proposal**

31. No evidence seen by objectors of the statue suffering from anti-social behaviour or having vomit or urine on it. Disrespect by a few shouldn't lead to the majority losing easy access to the sculpture.

Millennium Place is in a central location that allows the statue to be viewed regularly by the residents and visitors to Durham which would not be as accessible at the Cathedral.

The statue was funded by public fund raising and the central siting allows the funders to view the statue.

The failure of Millennium Place to become the cultural centre of Durham should be addressed rather than the sculpture being moved.

The sculpture is titled The Journey – and so is appropriately sited in Millennium Square – as the journey is still continuing to the Cathedral – relocating it to the Cathedral is not appropriate as it is then 'The Arrival'.

The Journey has many visitors at Millennium Place and tourists enjoy reading about it and being photographed by it. The siting here also allows groups to gather round it.

The sculpture is a great asset to Millennium Place but much less significant by the Cathedral because of the quality of this Heritage Asset.

No public consultation about moving the statue has taken place – even though the statue was funded by public subscription.

The current siting in Millennium Place is appropriate as it forms a gateway into the City and was carefully chosen for this purpose.

Millennium Place is more disabled friendly with flat paving – relocating it to the Cathedral makes it harder for disabled people or people with mobility problems to view the sculpture.

Palace Green and the Cathedral need no further enhancement whereas Millennium Place does.

### **APPLICANTS STATEMENT:**

32. The sculptor appreciates the strength of feeling that the proposal to move The Journey has aroused in the City and respects the views of those who wish to see it stay in Millennium Place. However the closure of the tourist information office and the strong emphasis on the night time economy in Millennium Place has altered how

appropriate this setting is for The Journey. The fact it is occasionally used for a climbing frame or a late night urinal might not be unusual for public art but it is disheartening to see for a sculpture of this theme.

33. The opportunity has now arisen to move The Journey closer to the Cathedral. It would allow the sculpture to be viewed in a more contemplative space. It would form part of a re-ordering of the entrance to the cathedral where it would focus on the interpretation on the importance of the shrine of St Cuthbert as a component of the outstanding value of our World Heritage Site.
34. The woodcarving that the sculpture was cast from is located on Holy Island and forms the beginning of St Cuthbert's journey and to fulfil the narrative context of the sculpture the bronze needs to be located in context with Cuthbert's shrine to form the conclusion. When the sculpture is placed out of context anywhere along the route, without knowledge of the story of Cuthbert it can only be a group of people carrying a coffin and the meaning is lost. The communication in this art work is complex and multifaceted and placement near the north door to the Cathedral is appropriate.

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

35. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development and impact upon the heritage asset, landscape and health and safety.
36. Planning permission is required for the erection of the statue at the Cathedral but not for the removal of the statue in Millennium Place. The removal of the statue does not require planning consent and as such the statue could be removed at any time without requiring a planning application.

### **Principle of development**

37. Policy Q15 of the local Plan encourages the provision of artistic elements in the design and layout of developments. The bronze sculpture is therefore considered consistent with this policy.
38. Policy Q1 of the local plan encourages good design principles and Policy Q4 encourages public spaces and pedestrian areas to be designed with good quality materials. In this case the increase in the width of the path and the improvement in the materials is considered in accordance with these policies. In addition the retention of the public seating is in accordance with Policy Q1 section 3 and the introduction of the bollard lighting on a path that is used outside daylight hours is in accordance with Policy Q1 section 2.

### **Impact on Heritage Asset and Landscape**

39. The widening of the footpath and the resurfacing of the existing tarmac path with sandstone sett paving is welcomed by both Historic England and the County Council's Conservation Officer. One tree will be lost from widening the footpath and the County Council's Landscape Architect has supported the loss of the tree as it opens the view of the front elevation of the Cathedral a little more. The remaining trees are retained. The amendment to the paving and the loss of the tree is assessed to enhance the setting of the heritage assets in this sensitive location in accordance with policies E3, E6, E22 and E23 of the Local Plan, and policies 44 and

45 of the County Durham Plan (although limited weight can be given to these policies)

40. The sculpture is proposed to be erected close to the entrance from Palace Green to the Cathedral. Given the scale of the Cathedral and the relatively small scale of the sculpture the impact of the sculpture on the heritage asset is not considered to be significant by Historic England or the County Council Conservation Officers. The rationale for locating the sculpture in this location to signify the end of St Cuthbert's journey does have some public benefit and is supported by the applicant, Durham Cathedral. The sculpture is sited in alignment with the boundary trees and the setting of the Cathedral is not detrimentally affected with views of the building not being significantly altered by the introduction of the sculpture. The introduction of the sculpture is therefore not considered to detract from the setting of the Conservation Area, World Heritage Site or Listed Buildings.
41. Lighting is proposed both on the sculpture and adjacent to the path, constructed in aluminium and finished in a bronze colour. The sculpture is proposed to be illuminated by 8 uplighters located in the paving and the illumination is both to enhance the sculpture at night and to allow the sculpture to be seen on the path. Lighting bollards are proposed to flank the footpath which are low level and include down lighters so that the lighting illuminates the path only and so that the illumination does not conflict with the bespoke lighting on the Cathedral. The lighting columns are finished in a bronze colour and details of the finish of both the uplighter and bollard lighting would be conditioned. The level of illumination is considered to be appropriate for the access and egress of the Cathedral during night time use. The introduction of the lighting is therefore not considered to detract from the setting of the Conservation Area, World Heritage Site or Listed Buildings in accordance with policies E3, E6, E22 and E23 of the Local Plan, and policies 44 and 45 of the County Durham Plan (although limited weight can be given to the CDP policies)
42. In considering proposals in a Conservation Area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention should be given to preserving or enhancing the character or appearance of that area. In addition Section 66 of the Act requires the Local Planning Authority to have special regard to preserving the listed building and the setting of the listed building. In the context of the above assessment, the proposal is considered to comply with these requirements. It is considered that the footpath works would enhance the setting of the listed building and the placing of the sculpture, the low level bollard lighting and the movement of the seating would not detract from, and would therefore preserve, the character and appearance of the Conservation Area and not detract from the setting of the listed building.

## **Health and Safety**

43. Policy Q1 requires personal safety to be taken into consideration on all new developments and to take into account the access needs of people with disabilities, the elderly and children to be considered. Health and safety issues were raised by Planning Officers about the location of the sculpture on the widened footpath as the sculpture has been a popular location for photographs and to gather to experience the sculpture in Millennium Place. The Cathedral also has large congregations that exit on the path and would not necessarily expect a sculpture to be located in such a position. The agent has explained they do not wish to alter the location and sufficient space is available to pass either side of the sculpture.

44. It is noted that the path is a private right of way rather than a public right of way. In assessing the impact of the sculpture it is noted that the existing path is widened at the entrance to Palace Green which improves the current situation. In addition the width of the footpath to the rear of the sculpture is wider than the minimum 900 mm required for disabled access which allows people to pass either side of the sculpture. The sculpture is lit at ground level by uplighters to allow it to be viewed outside daylight hours and the footpath is also lit. The sculpture is also fixed at ground level so there is no trip hazard from a plinth. The health and safety implications from the sculpture are therefore considered to be minimal and the proposal is considered to comply with Policy Q1.

#### **.Additional matters raised by objectors.**

45. It is clear from the petitions and individual letters and emails that the 'Journey' sculpture is well regarded and enjoyed by the local community and all comments received are about wanting the sculpture in either Millennium Place or the Cathedral.
46. The issue raised by objectors about the funding of the sculpture is not a material planning consideration. In addition objectors' concern about the lack of publicity by the trust about moving the sculpture is also not a material planning consideration.
47. Objectors' comments about preferring the sculpture in Millennium Place, how Millennium Place should be enhanced and the sculpture retained there are also noted. However as explained above the removal of the sculpture from Millennium Place is not something that can be controlled through planning regulations.
48. Objectors' comments about there being more space in Millennium Place for the sculpture to gather round are also noted. As explained above only the application submitted for the sculpture adjacent to the Cathedral can be considered rather than a preference between the two locations. As addressed above this issue was raised by Planning Officers with the agent.
49. Objectors also raised concerns that Millennium Place provided better access for people who are disabled or who have limited mobility. Again the issue is not one of comparing the two sites but in planning terms whether the siting at the Cathedral raises material planning concerns in terms of access. Objectors' concerns about the uneven pavements to the Cathedral are noted but alternative access by public or private transport is also available.

---

## **CONCLUSION**

---

50. Siting of the 'Journey' bronze cast statue with the widening of the footpath and resurfacing of the path in sandstone setts and associated lighting is not considered to detract from the setting of the heritage assets in this sensitive area. Indeed the improvement to the surfacing of the path from tarmac to sandstone setts is considered to be an enhancement. The proposal is therefore considered to conform with NPPF Part 12, Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Local Plan Policies Q15, E3, E6, E14, E22, E23 and E24. The recommendation is therefore for approval with conditions.

---

## **RECOMMENDATION**

---

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



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

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

2. The development hereby approved shall be carried out only in accordance with the approved plans and specifications contained within following documents validated on the 14<sup>th</sup> April 2015:

Site Location Plan, Frame Construction and lighting drawing reference 234181 – 15 drawing 300 Revision B, Proposed and existing plans drawing reference 234181 – 15 drawing 101 Revision A, Photo montage views drawing reference 234181 – 15 drawing 201 Revision A, Heritage Statement

Reason: To secure an acceptable form of development that meets the objectives of Policies Q15, E3, E6, E14, E22, E23 and E24 of the City of Durham Local Plan 2004.

3. Before the development commences full details of the resurfacing and widening of the path shall be submitted to the Local Planning Authority and approved in writing. The submitted details shall include a sample of the paving, a methodology of how the path will be laid and details of the layout of the paving setts. The paving shall then be implemented in accordance with the agreed details.

Reason: In the interests of visual amenity in accordance with the objectives of Policies E3, E6, E22, E23 and E24 of the City of Durham Local Plan 2004.

4. Before the development commences full details of the colour and finish of the lighting bollards and inset uplighters shall be submitted to the Local Planning Authority and approved in writing. The lighting bollards and inset uplighters shall then be implemented in accordance with the agreed details.

Reason: In the interests of visual amenity in accordance with the objectives of Policies E3, E6, E22, E23 and E24 of the City of Durham Local Plan 2004.

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

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

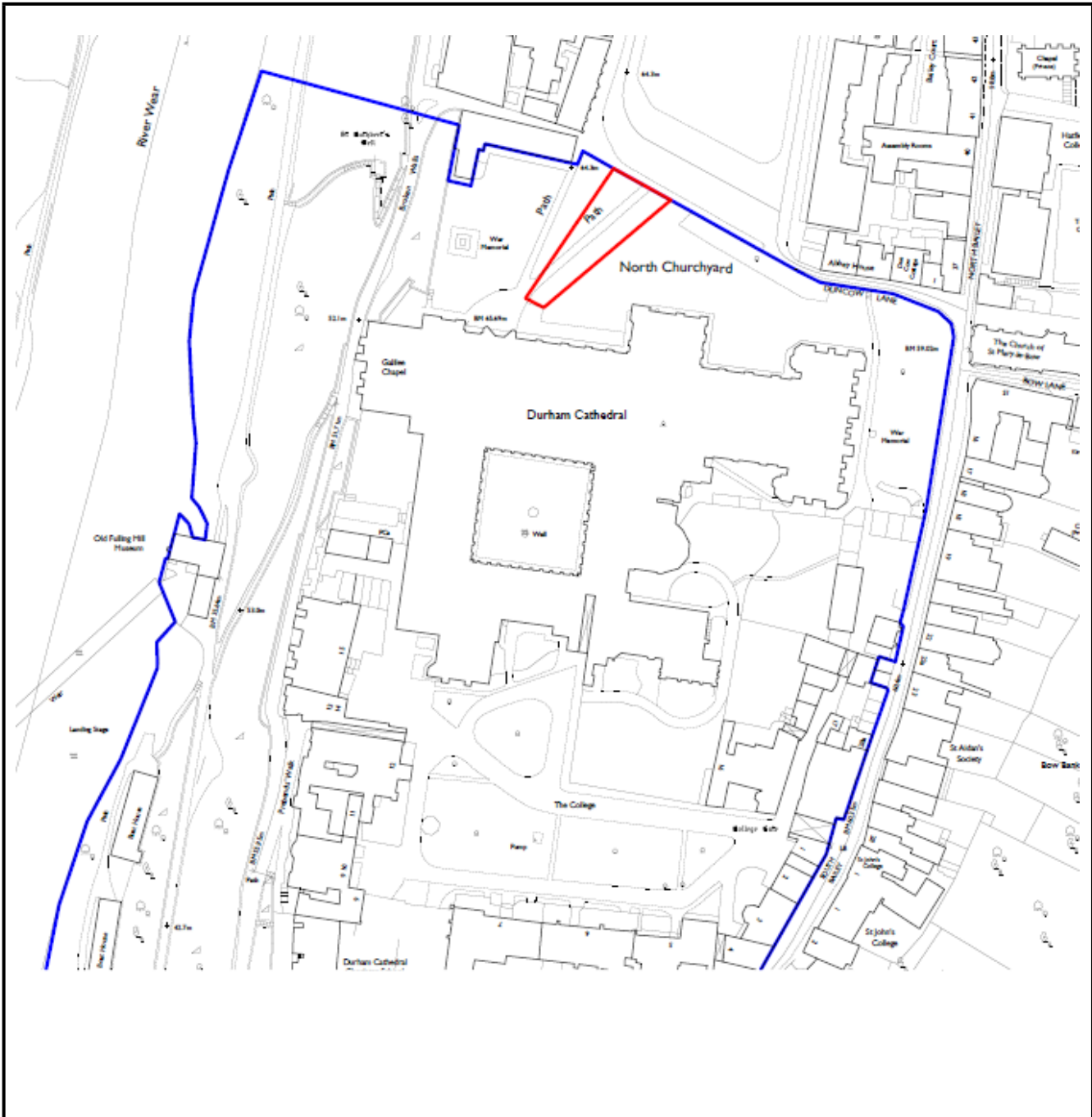
---

## **BACKGROUND PAPERS**

---

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

The National Planning Policy Framework  
National Planning Practice Guidance Notes  
City of Durham Local Plan 2004  
Statutory, internal and public consultation responses



**Planning Services**

Relocate 'The Journey' sculpture from Millennium Place to North Churchyard, Durham Cathedral, widen existing entrance path, alter the surfacing of the path to sandstone setts, relocate two seats and associated lighting.

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005

**Comments**

**Date** July 2015

# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	<b>DM/15/01689/RM</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Reserved matters application for appearance, landscaping, layout and scale for the erection of 38no. dwellings and open space. Discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT.</b>
<b>NAME OF APPLICANT:</b>	<b>Bett Homes Limited</b>
<b>ADDRESS:</b>	<b>Land to the north of Willowtree Avenue, Gilesgate Moor</b>
<b>ELECTORAL DIVISION:</b>	<b>Belmont</b>
<b>CASE OFFICER:</b>	<b>Chris Baxter</b> <b>Senior Planning Officer</b> <b>03000 263944</b> <a href="mailto:chris.baxter@durham.gov.uk">chris.baxter@durham.gov.uk</a>

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. The application site relates to a previously un-developed green field site which sits to the north of Willowtree Avenue, Gilesgate, Durham. The site measures approximately 1.49 hectares in size and is situated within the City of Durham settlement boundary. Residential properties on Willowtree Avenue sit to the south of the site, while residential properties at the Paddocks sit to the east. The A690 and associated slip road sits to the north of the site while business and industrial uses sit separated from the site to the north east beyond Broomside Lane. The site has no particular designation within the City of Durham Local Plan and the principle of development of the site for housing has been accepted as part of the emerging County Durham Plan, and through a grant of outline planning permission. Access would be taken from the western side of Willowtree Avenue where the road links with Broomside Lane.

### The Proposal

2. This application seeks agreement of the reserved matters - appearance, landscaping, layout and scale relating to a previous outline approval (ref CE/13/01651/OUT). Information is also submitted in respect of other conditions attached to the outline approval which are not reserved matters, although it should be noted that discharge of such conditions is a delegated matter. Equally, any variation to the existing S106 Obligation for the site is not a matter for the Committee and is delegated to the Head of Planning.

3. This application is being referred to the planning committee at the request of Cllr Conway.

---

## **PLANNING HISTORY**

---

4. Planning permission was refused for residential development at the site in 1973. Outline planning approval for residential properties was refused in 1980. Outline Planning permission was refused for residential development at the site in 1985. An appeal against this decision was dismissed following a local Inquiry in 1986. Planning permission was refused for residential development at the site in 2003. An appeal against the refusal was dismissed. Planning approval for 1 residential dwelling was refused at the site in 2004. An application was granted approval in 2009 for the change of use of land for the keeping of horses. A planning application for the erection of stable block was approved in 2010.
5. An outline planning application for a maximum of 54 no. dwellings was refused by the planning committee in October 2013. An appeal against this refusal was dismissed by the planning inspectorate. An outline application for up to 49 dwellings was approved by the planning committee in March 2014. A discharge of conditions application was approved in 2014 relating to Archaeology. A reserved matters application was refused by the planning committee in January 2015. An appeal against this refusal has been lodged and is currently pending a decision. The reserved matters application was refused for the following reason:

*The development would not be appropriate in scale and form to the character of its surroundings, would fail to respond to local character and would detrimentally affect the residential amenities of nearby and adjacent properties through the proximity and overbearing impact of the new dwellings, contrary to Policy Q8 of the City of Durham Local Plan and Part 7 of the NPPF.*

6. A further reserved matters application was refused by the planning committee in May 2015. This reserved matters application was refused for the following reason:

*The development would not be appropriate in layout, design and scale to the character of its surroundings and would detrimentally affect amenity within the locality, contrary to Policy H13 and Q8 of the City of Durham Local Plan and Part 6 and 7 of the National Planning Policy Framework.*

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY:**

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

10. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
11. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* 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.
13. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning..
14. *NPPF Part 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.
15. *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.
16. *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**

17. *Policy E5a (Open Spaces within settlement boundaries)* states that development proposals within settlement boundaries that detract from open spaces which possess

important functional, visual or environmental attributes, which contribute to the settlements character or to the small scale character of an area will not be permitted.

18. *Policy E10 (Areas of Landscape Value)* outlines that the Council will protect the landscape value of the area.
19. *Policy E14 (Trees and Hedgerows)* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
20. *Policy E15 (Provision of New Trees and Hedgerows)* states that the Council will encourage tree and hedgerow planting.
21. *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.
22. *Policy H2 (New Housing Development within Durham City)* sets out criteria outlining the limited circumstances, in which new housing within Durham City will be permitted, this being primarily appropriate on previously developed land and through conversions.
23. *Policy H12 (Affordable Housing: Ensuring a range of house types)*. This Policy states that on larger sites proposed for housing the council will negotiate a fair and reasonable level of affordable housing provision.
24. *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.
25. *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.
26. *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.
27. *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.

28. *Policy R2 (Provision of Open Space – New Residential Development)* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
29. *Policy R11 (Public Rights of Way and other paths)* 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 unless a suitable alternative route could be provided.
30. 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.
31. 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.
32. 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.
33. 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
34. *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.
35. *Policy U8a (Disposal of Foul and Surface Water)* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
36. Policy 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.
37. 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.

38. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

## RELEVANT EMERGING POLICY

### The County Durham Plan

39. 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:

40. *County Highways Authority* has not raised any objections to the proposed development.
41. *Northumbrian Water* has not raised any objections to the proposed development.
42. *The Coal Authority* has not raised any objections to the proposed development.
43. *The Environment Agency* has not raised any objections to the proposed development.
44. *Belmont Parish Council* has commented on the application indicating that they consider the removal of 2.5 storey dwellings and apartments an improvement. The Parish Council still have concerns with parking and the positioning of bin stores.

### INTERNAL CONSULTEE RESPONSES:

45. *Archaeology* has not raised any objections to the scheme.
46. *Environmental Management (Contamination)* has not raised any objections to the scheme.
47. *Environmental Management (Noise/light/smoke/dust/odour)* has not raised any objections.
48. *Ecologist* has not raised any objections.
49. *Design and Conservation* has not raised any objections.
50. *Landscape Team* has not raised any objections in principle.



51. *Tree Officer* has not raised any objections to the scheme.

52. *Drainage Officer* has not raised any objections to the scheme.

53. *Education Team* has confirmed that there are sufficient primary and secondary school places to accommodate the additional pupils likely to be produced from this development.

54. *Public Rights of Way* have not raised any objections to the scheme.

#### **PUBLIC RESPONSES:**

55. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. Nine letters of representation have been received from local residents. The majority of the letters are objecting or raising concerns with the proposed development.

56. Objections are raised in relation to the layout and style of dwellings not being in keeping with the character of the area, development being too tightly packed together, gardens too small, three storey development not appropriate and overlooking and loss of privacy to existing properties on Willowtree Avenue. The proposals are therefore considered to be contrary to local plan policies.

57. Highway concerns are raised, in particular in relation to parking during construction stage, as well as additional traffic the development would bring and lack of parking on site.

58. Concerns have also been raised that the site is contaminated. Objections are also raised to the loss of trees on the boundary of the site. Local residents have also indicated that rental flats are not appropriate to the area and would detract from local property value. It has been indicated that this is development within the Green Belt and there are other brownfield sites within the area which can be developed on. A local resident considers that there is no affordable provision on the site and the majority of the house types will all be 4 bedroom properties.

59. Residents do state that the proposals are contrary to local and national planning policies. They also state that an appeal was dismissed for a previous refusal for outline permission on this site.

#### **APPLICANTS STATEMENT:**

60. The current application has considered fully all responses to the two previous reserved matters applications including comments from Council officers in Urban Design, Environmental Health, Highways and Landscape together with the minutes of previous Central and East Planning committee meetings in January 2015 and May 2015. The applicant has also considered local comments and concerns regarding issues that are under consideration in this application including design, character and layout, recognising that matters such as highways and access, drainage and flooding have already been approved and are not matters to be debated. The application now submitted has addressed all matters and is compliant with planning policy both locally and nationally. The proposed development comprises of fewer houses (38 against an outline of 49 and against the two previous refusals of reserved matters for 42 dwellings). The density of the scheme is therefore lower. Building heights have been reduced so that all development is now two storey, including the flats, which are no greater in height than the houses proposed. The

applicant has reduced the width of the access road as requested by highways (from 5.5m to 4.8m) with the additional space used to increase the separation between proposed dwellings and those existing dwellings located on Willowtree Avenue. The application has enhanced existing landscaping with new trees and hedgerows. The layout is entirely in accordance with those policies against which Members refused the two previous reserved matters schemes namely Local Plan Policies Q8 and H13 and National Planning Policy Framework Parts 6 and 7. The separation between dwellings at the narrowest point and at ground floor level is at least 21m as set out in guidance to Policy Q8. The applicant therefore considers that the development is entirely in character with the area being of similar scale, height, design and massing as existing homes and will not impact negatively on the amenity of existing dwellings nor be overbearing given the separation distances and orientation between existing and proposed housing.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

61. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the appearance, landscaping, layout and scale of the development, residual highways issues and other issues. The principle of the development of this site is not for consideration as part of this application as the principle for residential development for this site was established through outline approval CE/13/01651/OUT.

Appearance, landscaping, layout and scale of development

62. This application is a resubmission of two previous reserved matters application which have been refused by the planning committee for the following reasons:

Application DM/14/03318/RM refusal reason:

*The development would not be appropriate in scale and form to the character of its surroundings, would fail to respond to local character and would detrimentally affect the residential amenities of nearby and adjacent properties through the proximity and overbearing impact of the new dwellings, contrary to Policy Q8 of the City of Durham Local Plan and Part 7 of the NPPF.*

Application DM/15/00911/RM refusal reason:

*The development would not be appropriate in layout, design and scale to the character of its surroundings and would detrimentally affect amenity within the locality, contrary to Policy H13 and Q8 of the City of Durham Local Plan and Part 6 and 7 of the National Planning Policy Framework.*

63. The developer has amended the scheme in line with the comments raised at the previous committees with the intention to overcome the reasons for refusal. The changes to the scheme include the following:

- Reduction in the number of units to 38 therefore reducing the density of the site;
- All properties including the proposed apartment blocks are to be of two storey design;
- Reduction in the width of the internal estate road which increases separation distances between proposed properties and existing houses on Willowtree Avenue, whilst still ensuring a minimum of 21 metre separation distance;
- Alterations made to the design of some of the properties;
- Apartment block split into two separate units

- Enhanced landscaping scheme with the introduction of further trees and hedging.
64. Policies H13 and Q8 seek to ensure that new developments preserve the amenities of residents. Policy Q8 provides detailed guidance on separation distances between properties to ensure adequate amenity. Policy H13 states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them.
65. Officers note that the application has been scaled down from the outline stage with 38 dwellings now proposed as opposed to the maximum number of 49 that the outline application allowed. This has allowed a higher quality scheme with reduced density to be brought forward.
66. It is considered that the scheme which has been put forward, offers a mixed street scene, all the dwellings being provided are detached dwellings of two storey construction. Officers acknowledge that the existing residential area adjacent to the site currently comprises of a large degree of semi-detached dwellings, although the closely spaced proposed detached dwellings are not considered significantly at odds with the urban grain of the area.
67. Five house types are proposed with a mix of 5 bed and 4 bed properties. It is acknowledged that the majority of the properties are 4 bed houses with three of the properties being 5 bed. Housing schemes are usually required to provide a range of different house types, and whilst this is achieved in design, it could be argued that this is not achieved in terms of the number of bedrooms provided. The accommodation provided on the proposed site does have to be considered in context to the existing accommodation within the surrounding area. The existing properties to the south of the site include a mix of 2 and 3 bedroom properties and it is considered that introducing 4 bed room properties into the area through this proposed scheme would provide a good mix of housing accommodation. In addition within the two apartment block towards the eastern side of the site 8no. 1 bed bedroom apartments would be provided. All properties are of pitched roof design with a variety of materials and design features. The proposed materials for the properties are to consist of a mix of brick and render, with tiled roofs, reflective of materials within the existing residential area.
68. Previous concerns which regards to the 2.5 storey and 3 storey heights of some of the proposed houses and the apartment block has led the developer to remove all these elements from the development. All the properties including the apartment blocks are two storey in height. The apartment block has been split into two blocks and reduced in massing so they now appear more as two detached dwellings rather than apartment blocks. The scale and massing of the two storey proposed properties match the existing properties which are directly adjacent to the site. The proposed development therefore fits in well with the character and appearance of the surrounding residential area and is considered to fully accord with policies H13 and Q8 of the local plan.
69. Policy Q8 outlines guideline separation distances between dwellings. This policy seeks a window to window separation distance of 21mtrs and a window to blank two storey separation distance of 13mtrs.
70. Officers consider that the most direct relationship that dwellings on the application site would have to existing development would be the relationship of plots 1-9 with the rear of properties on Willowtree Avenue. The required 21mtr distance would be met or exceeded on this part of the site, although Officers acknowledge that these

properties would suffer reduced outlook and privacy as opposed to looking across the undeveloped land. The relationship of properties within the site would be acceptable when considering properties at The Paddocks, situated across Willowtree Avenue to the east.

71. Footpath links would be maintained on the site and the applicant is engaged in other legal processes outside of the scope of the reserved matters application to resolve matters relating to public rights of way. Part of the north of the site has been left vacant due to the electricity lines that pass above it. Officers understand that the responsibility for this area of the site will be passed to a management company. Clearly while access to this part of the site will not be encouraged it would be difficult to close off completely as access will be required by Northern Powergrid and for the footpath which passes through the north of the site. Officers understand that the site has for a long time been used for recreational activity and are not aware that there have been any previous issues relating to the power lines.
72. An updated landscaping scheme has been provided which would allow for the provision of further tree and hedge planting within the site. Grass and driveway areas will be provided along with patios within the gardens of dwellings. Trees and hedging are proposed along the east boundary of the site and along part of the south boundary adjacent to Willowtree Avenue. This scheme has been arrived at through detailed discussion between Officers and the applicants landscape team and the latest scheme is considered the best possible at the site, of a higher standard than would be achieved at many similarly sized developments.
73. The application proposes no plans to remove landscaping features such as trees and hedging which are situated outside of the application site adjacent to Broomside Lane and the A690 slip road which are predominantly on highways land. These features will assist in screening the site from north west and north east.

#### Highway issues

74. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety or have a significant effect on the amenity of occupiers of neighbouring property. The NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
75. A significant level of concern has been raised by adjoining occupiers relating to Highways issues at the site, however the principle of development at the site and the access was agreed under the previous outline approval and discussion in this regard is limited to the greater highways detailing that accompanies this application and any residual matters such as parking provision.
76. Highways Development Management Officers have given consideration to the proposed scheme and have offered no objections to the proposals. An acceptable level of parking internal to the site has been provided both at the dwellings and in terms of visitor spaces. A condition was attached to the outline application requiring engineering details, these have been submitted and are considered acceptable.
77. Concern over the management of contractors parking has been noted. With this in mind Officers have worked with the applicant to ensure that a contractors parking area has been provided within the site compound, this is detailed on submitted plans.

## Planning obligations

78. The outline application was accompanied by a completed S106 agreement to make a financial contribution of £54,000 towards open space and recreational facilities and £29,055 as a public art contribution. An affordable housing provision of 20% was proposed within the agreement which would have equated to an on-site provision of a minimum of 10 units relating to the proposed 49 units.
79. Given the reduction in units down to 38, the applicant has sought to vary this agreement through a deed of variation. The deed of variation seeks approval to reduce the number of affordable units to 8 for affordable renting purposes. Affordable housing officers consider this acceptable. In response to concerns about the developer finding an organisation to take on the affordable units, the applicant has supplied a letter of interest from one provider and is confident the affordable units would be able to be placed with an appropriate organisation.
80. The public art and recreational space contributions are considered to adhere to the requirements of Policies Q15 and R2 of the Local Plan and the affordable housing provision is also considered appropriate. Officers note that the proposed financial contributions relating to public art and open space are above levels that would be required for 38 dwellings, relating instead to levels required in association with the original plans for 54 dwellings and therefore consider on balance the revised section 106 offerings acceptable.
81. However, it should be noted that as any variation to the existing Section 106 Agreement is a matter which is delegated to the Head of Planning, this is not something upon which Members are asked to make a decision. The detail of the proposed Deed of Variation is contained in this report for Members information, for the sake of completeness.

## Other issues

82. The outline approval was issued with conditions requiring details to be submitted in relation to the disposal of foul and surface water, energy minimization scheme, gas monitoring relating to coal mining legacy issues, tree protection plans and archaeological investigation.
83. Again, the discharge of conditions other than reserved matters conditions is not a matter for Members to reach a decision upon as this is delegated to the Head of Planning. However, this information is reported to Members for the sake of completeness.
84. Plans for the disposal of foul and surface water have been submitted and accepted by Northumbrian Water and the Councils Drainage and Coastal Protection team. The Environment Agency has also raised no objections. Monitoring relating to mining legacy issues has been undertaken and the Coal Authority is satisfied that the site can be safely developed. A fabric first approach to energy minimization has been adopted and accepted by the sustainability team. Conditions relating to these matters therefore have not been carried across to this application. Officers acknowledge points of public concern relating to drainage and flooding issues but have consulted with the relevant bodies who are satisfied that arrangements are acceptable. Significant weight cannot be afforded to concerns about loss of property value, and Officers do not consider the provision of the flats inappropriate to the area. They would help to achieve one of the aims of the NPPF in creating inclusive and mixed communities.

85. The appropriate archaeological investigations have been undertaken and these conditions discharged under a previous discharge of conditions application, therefore these conditions are no longer applicable.
86. Officers are aware that a totem style sign and flag advertisement have been erected at the site and it can be confirmed that this signage now has the relevant consent from the local planning authority.
87. Policy E16 of the Local Plan seeks to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through the NPPF most notably at paragraphs 118 and 119.
88. The presence of protected species is a material planning consideration. The requirements of the Habitats Directive were brought into effect by the Conservation of Habitats and Species Regulations 2010. These regulations established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations, it is a criminal offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
89. The application is accompanied by a protected species report. The survey notes the existence of seven types of habitat, and states that in general terms, the site is poor in terms of habitat structure and wildlife value. A risk to nesting birds was identified at the site, with appropriately timed works recommended to reduce risks to bird species. Ecological enhancements have been proposed to the site which would involve the creation of a grassed area under an ecological management routine in order to increase its species richness. This is proposed to the area in and around power cables which occupy the northern part of the site. It is also recommended that a small pond/scrape be created to increase species richness at the site.
90. The Councils Ecology section has raised no objections to the proposal, the mitigation measures within the submitted habitat surveys have been conditioned on the outline approval.
91. As a result no objections are raised with regards to the impact of the development upon protected species in accordance with Policy E16 of the Local Plan and the provisions of the NPPF.

---

## **CONCLUSION**

---

92. Significant alterations have been made in this application from the previous scheme which was refused by Members. All the 2.5 storey houses have been removed from the scheme. The apartment block has also been divided into two blocks and reduced significantly in scale. A minimum of 21 metre separation distance with the existing houses on Willowtree Avenue has been achieved and exceeded in most cases. This would therefore ensure that the residential amenities of neighbouring occupiers would not be adversely affected. Alterations have been made to the design of the proposed properties and material samples have been provided which indicates that the proposed scheme would be of high quality which would be appropriate to the scale and character of the area.
93. Overall, it is considered that a scheme of acceptable appearance, landscaping, layout and scale has been brought forward through this reserved matters application which would comply with local plan policies and national planning guidance.

## RECOMMENDATION

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

1. The development to which this permission relates shall be begun not later than two years from the date of this permission or five years from the date of the grant of outline planning permission, whichever is the later.

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

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

<b>Plan Ref No.</b>	<b>Description</b>	<b>Date Received</b>
BD_003	900mm Post and Rail	29/05/2015
BD_014	1.1m High Close Boarded Fence on top of Retaining Wall	29/05/2015
BD_002	1.8m Wall and Fence	29/05/2015
BD_001	1.8 Timber Fence	29/05/2015
BD_008	2m Butt Boarded timber Acoustic Fence	29/05/2015
WT:AP:02	Proposed Apartment Elevations	29/05/2015
WT: AP: 01	Proposed Apartment Floor Plans	29/05/2015
DUR/ASY/001 B	Ashbury Det – Brick – Gable	29/05/2015
DUR/KIM/001 B	Kirkham Det – Brick – Hipped Roof	29/05/2015
NOY AS 001 A	Norbury Det As	29/05/2015
PEY AS 001	Pendlebury Det As	29/05/2015
ROY AS 001 A	Rosebury Det As	29/05/2015
WT/PL/01 E	Proposed Layout	01/07/2015
WT/PL/03	Site Location Plan	29/05/2015
WT/PL/02 E	Boundary Treatment & EHL	01/07/2015
D122.P.002 J	Planting Plan	01/07/2015

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

3. The extended Phase 1 report (Sirius Ref C5992 07-2014) has outlined remediation options for the removal off site of materials posing unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out by competent person(s). No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.

Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 11 and Policy U11 of the City of Durham Local Plan.*

4. No development shall take place unless in accordance with the mitigation detailed within part 4.3 the Extended Phase 1 Survey by Durham Wildlife Services, land north of Willowtree Avenue, Durham City dated August 2014.

*Reason: To conserve protected species and their habitat in accordance with Policy E16 of the City of Durham Local Plan 2004.*

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the practical completion of the development and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

*Reason: In the interests of the appearance of the area and to comply with Policy E14 of the City of Durham Local Plan 2004.*

---

## **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)





 <p><b>Planning Services</b></p>	<p><b>Reserved matters application for appearance, landscaping, layout and scale for the erection of 42no. dwellings and open space. Discharge of conditions 1, 2, 6, 8, 11 and 14 of outline approval CE/13/01651/OUT at Land to the north of Willowtree Avenue, Gilesgate Moor</b></p>				
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<table border="1"> <tr> <td data-bbox="861 1209 1181 1254"></td> <td data-bbox="1181 1209 1449 1254"></td> </tr> <tr> <td data-bbox="861 1254 1181 1361"> <p><b>Date</b> <b>14<sup>th</sup> July 2015</b></p> </td> <td data-bbox="1181 1254 1449 1361"></td> </tr> </table>			<p><b>Date</b> <b>14<sup>th</sup> July 2015</b></p>	
<p><b>Date</b> <b>14<sup>th</sup> July 2015</b></p>					

This page is intentionally left blank

# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	<b>DM/14/00338/OUT</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Outline application (all matters reserved except access) for up to 50 dwellings</b>
<b>NAME OF APPLICANT:</b>	<b>Church Commissioners for England</b>
<b>ADDRESS:</b>	<b>Land at Station Road, Coxhoe</b>
<b>ELECTORAL DIVISION:</b>	<b>Coxhoe</b>
	<b>Chris Baxter</b>
<b>CASE OFFICER:</b>	<b>Senior Planning Officer</b>
	<b>03000 263944</b>
	<b>chris.baxter@durham.gov.uk</b>

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. The application site is located on land to the west of Station Road in Coxhoe. There are residential bungalows located along the east boundary of the site, with the adopted C23 road of Station Road located beyond these bungalows. The north of the site is bounded by residential properties on Oakwood and Ashbourne Drive. The A177 bypass is located directly to the south and there are open fields, linked with Bogma Hall Farm, to the west. The site itself is currently a field with some trees and hedging scattered across it. There is a field access gate to the south east corner of the site which joins Station Road. The junction of the A177 with Station Road is directly on the south east corner of the application site. The A1(M) motorway is located approximately 450 metres away to the west.

### The Proposal

2. Outline planning permission is sought for residential accommodation for up to 50 dwellings. All matters are reserved for future consideration except access which is to be determined at this stage. Access details have been submitted indicating that the proposed access to the site would be onto Station Road to the south east of the site. Although layout is reserved for future consideration, an illustrative layout masterplan has been submitted to give an indication that the site could accommodate 50 properties. This illustrative layout essentially shows a main spine road running through the site with houses located either side of the road.
3. The application is reported to the Planning Committee as it constitutes a major development.

---

## PLANNING HISTORY

---

4. There is no planning history on this site which is relevant to the determination of this proposed development.
5. A full planning application (Ref: DM/14/02041/FPA) for the erection of 162 dwellings has been submitted on the site known as Bogma Hall Farm, which is on the fields directly to the west of the application site. This application is currently pending.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY:**

6. 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.
7. 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’.
8. The following elements are considered relevant to this proposal;
9. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
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 6 – Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority’s to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
12. *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.
13. *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.
14. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising

the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

## **LOCAL PLAN POLICY:**

### **City of Durham Local Plan**

15. *Policy H5 (New Housing the Countryside)* sets out criteria outlining the limited circumstances in which new housing in the countryside will be permitted, this being where it is required for occupation by persons employed solely or mainly in agriculture or forestry.
16. *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.
17. *Policy E15 (Provision of New Trees and Hedgerows)* states that the Council will encourage tree and hedgerow planting.
18. *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.
19. *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.
20. *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.
21. *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.
22. *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.
23. *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

24. *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.
25. *Policy R2 (Provision of Open Space – New Residential Development)* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.

#### **EMERGING POLICY:**

26. 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:**

27. *Environment Agency* has not raised any objections to the proposed development.
28. *Northumbrian Water* has not raised any objections subject to a condition for a scheme for the disposal of foul and surface water to be submitted.
29. *Durham Highways Authority* has indicated that proposed access for 50 houses is considered acceptable and there would be no adverse impacts on the existing highway network.
30. *Natural England* has not raised any objections to the proposed development.
31. *The Coal Authority* has not raised any objections to the proposed development subject to a condition for intrusive investigation works to be undertaken prior to development.

32. *Police Architectural Liaison Officer* has not raised any objections but has provided advice in relation to the design of the scheme.

33. *Coxhoe Parish Council* have raised concerns in relation to increased traffic, biodiversity and noise.

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

34. *County Spatial Policy Team* has not raised any objections to the proposed development.

35. *County Landscape Team* has not raised any objections to the development of the whole of the Bogma Hall Farm site however concerns are raised to this scheme coming forward in isolation.

36. *County Tree Officer* has not raised any objections to the proposal.

37. *County Environmental Health (Noise, dust and light)* has no objections in principle however in order to minimise the environmental impact some conditions are recommended.

38. *County Environmental Health (Contaminated land)* has not raised any objections subject to the imposition of a condition.

39. *County Archaeology Section* has not raised any objections. Conditions are recommended for further archaeological works to be undertaken prior to development commencing.

40. *County Ecology Section* has confirmed that the ecology reports submitted with the application are acceptable.

41. *County Drainage Officer* has not raised any objections to the proposed development.

42. *County Education Section* has indicated that there are no contributions required for additional school places in respect of this development.

43. *County Public Right of Way Team* has not raised any objections to the proposed scheme.

#### **PUBLIC RESPONSES:**

44. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. 27 letters of representation have been received on the application, which includes a letter of objection from the City of Durham Trust, a residents group, the Durham Wildlife Trust, Coxhoe Community Partnership and the local medical practice.

45. Issues surrounding the principle of development have been raised by objectors. It is noted that the site is outside the settlement limits, is a greenfield site and not considered to be an infill site and therefore the development is contrary to local plan policies. The application is also considered to be contrary to emerging CDP policy 30 as the proposal does not deliver a single comprehensive scheme for the allocated site with structural planting and a single access point. The scheme is also not considered to be in line with the Parish Plan 2.

46. Residents have raised concerns with noise issues, archaeology, flooding concerns, loss of trees, habitat and impact on ecology. It is considered that the site provides an attractive entrance into the village and this proposal would result in the loss of landscape character. It is also noted that there is no landscape scheme submitted with the application. Concerns are also raised with regards to loss of privacy, loss of views and devaluation of existing properties. Some local residents have also indicated that there are legal easements/covenants restricting development in this area.
47. A main concern raised by the majority of the objectors is the impact the development would have on traffic and vehicle movements in the area. The access to the site is considered dangerous and the scheme would result in an increase in traffic which would be detrimental to highway safety.
48. There is also a concern that the proposed development would have an adverse impact on local amenities, in particular the local school and medical practice. It is also noted that there is limited parking in the village and the number of local shops is limited. It is concluded that there is no need for housing.
49. A letter of support has been received from Barratt Homes who wish to highlight the collaborative and joint working arrangements between Barratts and the Church Commissioners in bringing forward this site for development.

#### **APPLICANTS STATEMENT:**

50. On 10<sup>th</sup> June 2015, the Council's Cabinet considered 'Assessing Development Proposals in County Durham' and agreed it as the Council's Policy Position Statement to provide a consistent approach to determining planning applications in light of the Interim Inspector's Report on the County Durham Plan (CDP).
51. This confirms that as the Inspector's Report has diminished the status of the emerging CDP and 'saved' policies in existing Local Plans are now between 11 and 19 years old, the NPPF and its presumption in favour of sustainable development is the key material consideration for planning decisions in the interim.
52. The Application Site is part of the larger Non-Green Belt allocation at Bogma Hall Farm within the emerging CDP. Whilst only limited weight can be given to this, in such circumstances the Position Statement acknowledges that 'As the Council considered these sites to be appropriate allocations, it follows that the Council considers them to be sustainable. It is therefore likely that they will be acceptable if they overcome infrastructure requirements and detailed development management issues'. As confirmed by statutory consultees, there are no objections to the proposed development and any requirement to improve supporting infrastructure or otherwise secure appropriate mitigation will be addressed by the agreed planning conditions and Section 106 Agreement.
53. In further considering the presumption in favour of sustainable development, the Position Statement confirms that a planning balance will be applied, which in accordance with paragraph 14 of the NPPF, indicates that planning permission should be granted unless the adverse impacts of doing so would 'significantly and demonstrably' outweigh the benefits. The key benefits of the proposal are:
  - Help deliver the Bogma Hall Farm site, which is part of the Council's 5 Year Housing Land Supply
  - Provide a mix of house types to meet market demand



- Deliver 20% Affordable Housing to meet identified local needs
- Reduce the need to travel due to its accessibility to local facilities
- Increase patronage to help sustain local businesses and services
- Provide economic benefits from temporary construction jobs, increased Council Tax receipts and New Homes Bonus
- Achieve a net gain in the quantity and quality of ecological habitat for Great Crested Newts and other wildlife

54. Whilst the remainder of the wider allocation falls in separate ownership, the Applicant has worked jointly with the adjacent developer from the outset to ensure the whole site is planned and designed to deliver a comprehensive development. Planning applications for both parts of the site have been brought forward concurrently to further demonstrate a comprehensive approach has been adopted.

55. In applying the 'planning balance', the proposal will deliver sustainable development, contributing to the objectives of the CDP by helping meet the housing needs of the County and delivering other economic, social and environmental benefits. It is identified as a sustainable location which is suitable for residential development, as demonstrated by the Council's evidence base. As such, it is considered to benefit from the NPPF's principle in favour of sustainable development as no adverse impacts have been identified which would 'significantly and demonstrably' outweigh any benefits of granting planning permission.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

56. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of residential development of the site; highway and access issues; affordable housing and section 106 contributions; ecology and flood risk; residential amenity and noise issues; visual impact; and other issues.

### Principle of residential development

57. The site is located outside of the existing settlement boundary for Coxhoe and comprises greenfield land. There are no specific landscape or site designations relevant to the site. Saved Policy H3 of the local plan specifies that new housing development on sites which are located within the defined settlement boundary will only be permitted in instances where it involves the development of previously-developed land. Sites located outside of boundaries are treated against 'countryside' policies and objectives, and there is a general presumption against allowing development beyond a settlement boundary. Consequently, the development of the site for housing would be in conflict with local plan policy H3 and there would need to be other 'material considerations' to justify a departure from that policy.

58. A key material consideration in determining this application should be the NPPF. A strategic policy objective of the NPPF is to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs. Local Planning Authorities are expected to boost significantly the supply of housing, consider

housing applications in the context of the presumption in favour of sustainable development, and create sustainable, inclusive mixed communities in all areas both urban and rural. To accord with the NPPF new housing should be in locations which offer a range of community facilities with good access to jobs, key services and infrastructure (health, education, leisure and open space). New development should be located where everyone can access services or facilities on foot, bicycle or public transport rather than having to rely on access by car.

59. The provision of affordable housing where a need has been identified is encouraged through the NPPF, and a range of dwelling types and sizes, including affordable housing and alternative forms of tenure, to meet the needs of all sectors of the community should be provided. It is important to remember that the provision of affordable housing is only a benefit if the site is otherwise considered suitable for residential development in general.
60. Coxhoe is recognised as a smaller town/larger village (2nd tier in the County Durham Settlement Study) in the County and is a focus for growth within the plan. The application site is considered to be within a sustainable location within close walking distance to a good range of shops and services located within Coxhoe. The site is also within close walking distance to bus stops which provide regular links to other settlements, including Durham City. In terms of the issue of settlement limits, the emerging CDP proposes to remove them altogether and the NPPF places emphasis on delivering houses within sustainable locations and not necessarily restricted to settlement boundaries. Proposed development on sites outside defined settlement boundaries should be assessed on their merits and individual circumstances. Development can be considered acceptable provided that it is appropriate in scale, design and location to the character and function of the settlement; and is considered to form part of the built environment of the existing settlement. Whilst the application site represents land on the edge of the settlement, it can be viewed as well contained on account it is bound by the A177 bypass to the south.
61. It is important to note that the application site does form part of a larger site (Bogma Hall Farm) which is proposed to be allocated for housing within the emerging CDP under policy 30. Policy 30 of the CDP does indicate that the development of this Bogma Hall Farm allocated site would need to be delivered as a single comprehensive scheme, which incorporates structural landscaping and be accessed from a single access point. Stage 2 of the Examination of the CDP was intended to assess individual allocations in the CDP, although most are not mentioned specifically, the nature of the Inspectors Interim Report has effectively undermined the proposed allocations in the CDP. Therefore very limited weight could be afforded to this particular allocation within policy 30 when the Council is assessing the proposals. As previously mentioned in paragraph 5 of this report, there is currently a separate application for residential development for the remaining part of the Bogma Hall Farm allocation. This application is currently pending.
62. Development within Coxhoe and this particular site complies with the NPPF objective of locating housing in suitable locations which offer a good range of community facilities and with good access to jobs, key services and infrastructure. The NPPF is more up-to-date than the local plan and therefore more weight should be attached to its aims and objectives. The proposal for residential development is considered acceptable in principle and would be in line with the sustainable objectives of the NPPF.

63. This application has been made in outline with access to be considered. A detailed access drawing has been submitted. This access would be in the same location as the existing farm access gate which is located to the south east corner of the site where it would join Station Road C23 adopted road. The access details show improvements and alterations to the highway layout in this area by providing a protected right turn into the site. It is noted that the proposed access is located approximately 75 metres from the junction of the C23 with the A177. Concerns have been raised in general regarding the traffic increase this site could bring and in particular the impact it could have on the junction with the A177.
64. The County Highways Officer has assessed the transport statement submitted with the application which included speed counts and surveys of the area. The Highways Officer has carried out site visits on various occasions during peak periods to carry out queue length counts at the junction of the A177/C23. The Highways Officer is satisfied that there is not going to be any conflict with the proposed vehicular access and queue lengths. The proposed access is to have adequate visibility splays providing vegetation in the verge is removed. The removal of vegetation can be sought through the reserved matters stage. The estimated trip rates for the proposed development of 50 houses during peak hours are 28 trips in the morning and 32 in the evening. The Highways Officer is satisfied that there will be no material impact on the existing highway network.
65. Whilst it is noted that the proposed access would be able to accommodate a development of up to 50 houses which would not compromise highway safety. It is noted that the proposed access would be unlikely to support a residential scheme of over 50 houses.
66. Given the above it is considered that the proposed development would not have an adverse impact on highway safety and the proposal would be in accordance with policies T1 and T10 of the City of Durham Local Plan.

#### Affordable housing and section 106 contributions

67. The NPPF states that, in order to ensure a wide choice of high-quality homes, Local Planning Authorities should “plan for a mix of housing”, “identify the size, type and tenure of housing that is required in particular locations”, and “where affordable housing is needed, set policies for meeting this need on site”.
68. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2012 and supplies the evidence base for 20% affordable housing across the Central Durham Delivery Area (on sites of 15 or more dwellings/0.5 hectares or greater), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets. The SHMA, NPPF and Policy H12 of the local plan therefore provide the justification for seeking affordable housing provision on this site. The applicant has committed to signing up to 20% affordable provision on this site and this would be secured through a section 106 legal agreement.
69. The applicant has also accepted that the proposed development would be required to provide either public open space/recreational provision either within the site itself or provide a financial contribution to other open/recreation space in the near locality. Given this application is only in outline, the final layout of the scheme is not determined and therefore it's not possible to determine whether open space/recreation provision would be included within the final layout. The applicant has agreed to a formula approach being tied up within a section 106

legal agreement by which any shortfall in on-site provision can be met through a commuted sum payment towards off-site provision in the locality. The Council considers this approach to be acceptable and would be in line with policies R1 and R2 of the local plan.

70. The Council also encourage the provision of artistic elements in the design and layout of new development. The applicant has agreed a contribution of £35,000 towards public art and this will be secured through a section 106 legal agreement.
71. The above contributions would help to support and improve facilities within the surrounding locality for the benefit of occupiers of the additional properties and also existing residents of the local community. The contributions would be in accordance with policies R1, R2 and Q15 of the local plan.
72. It is noted that local residents have raised concerns with regards to the pressure additional residential properties would have on local services, in particular the local school and medical practice. In terms of the local primary school, the Councils Education Section have indicated that this proposed development would not require any commuted sum contribution to the improvement of the primary school. In terms of the local medical practice, the NHS has indicated that there is no option to increase capacity via an extension to the Coxhoe Medical Practice. It has further stated that funding for GP premise extensions is not dictated by projected patient numbers or population increases, as there will always be a degree of patient choice. It is noted that there are other medical practices within adjacent settlements of Kelloe and Bowburn which offer an alternative choice. On this basis, it is not considered there is any justification for this proposed development to contribute to medical practices within the locality.

#### Ecology and flood risk

73. A flood risk assessment has been submitted as part of the planning application for the proposed development. The available surface water connection is the sewer which crosses the site which would be utilised as the outfall connection to watercourse. The Environment Agency, Northumbrian Water and the Council's Drainage Officer have been consulted on the details which have been submitted and no objections have been raised. Northumbrian Water has requested that a condition is imposed for final details of the surface and foul water drainage to be confirmed prior to works commencing on site. A condition is recommended accordingly.
74. 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.
75. 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.

76. As the green field nature of the site could mean that a protected species may be disturbed by the proposed development, the applicant has submitted a number of ecology habitat surveys, including a bat risk assessment and extensive great crested newt surveys and mitigation proposals which have been assessed by the Council's Ecology Officers. In terms of potential impacts on bats, the bat risk assessment has indicated that there are no trees or buildings on the site which could potentially host bats. The site itself does have a high value as a potential bat foraging and commuting habitat with mature trees along the north boundary, well developed hedgerows and shrubs within the site itself. In order to minimise adverse impact on local bat populations mitigation measures are proposed. The Council's Ecology Officer is satisfied with the proposed mitigation measures in terms of bats and a condition is recommended for the bat mitigation measures to be adhered to.
77. The surveys submitted in respect of Great Crested Newts (GCN) have indicated that GCNs are present within the application site and adjacent land including ponds found in neighbouring gardens on Station Road. An outline mitigation method statement has been submitted which indicates that the GCNs can be translocated to a new wetland habitat area on land to the south of the application site. This method statement sets out initial procedures describing how the GCNs will be trapped and collected and then relocated to the new habitat area. To fully complete the mitigation process and ensure all the GCNs have been relocated this would mean that ecologists would have to enter third party land to trap and collect GCNs from the ponds in neighbouring gardens. The Council's Ecologist has fully assessed the outline mitigation method statement and has indicated that the information is acceptable and would allow the GCNs to be relocated without causing any harm to these protected species, and it is likely that a Natural England license would be granted on this basis. To ensure the protected species are not adversely compromised, it is essential that the mitigation for the GCNs is fully completed prior to works commencing on site. The applicant is committed to ensuring the GCNs are protected and they have agreed to a condition within a section 106 legal agreement ensuring the mitigation of the GCNs are fully adhered to. A condition within the section 106 legal agreement is therefore recommended.
78. Given the above, it is considered that a licence from Natural England is likely to be obtained and therefore the granting of planning permission would not constitute a breach of the Conservation of Habitats and Species Regulations 2010. Subject to the proposed mitigation detailed in the various submitted ecology reports, it is considered that the proposals would be in accordance with part 11 of the NPPF.

#### Residential amenity and noise issues

79. The application has been made in outline with all matters except access being reserved for future consideration. An illustrative masterplan has been submitted showing certain site development parameters. The masterplan shows a central spine road running through the centre of the site with houses located either side. Information submitted within the design and access statement indicates that the houses are envisaged to be two storey and would achieve the minimum separation distance of 21 metres with existing properties. Whilst it is acknowledged that final design and layout details would be agreed at reserved matters stage, it is considered that a scheme can be brought forward which would not compromise residential amenity of neighbouring properties in terms of loss of privacy.

80. The site is within close distance to the A177 bypass and the A1(M) motorway is situated approximately 450 metres away to the west, and therefore there is the potential for noise disturbance to prospective buyers of houses on the proposed scheme. This has been recognised by the applicant and a noise survey has been submitted with the application. Noise level measurements taken at measurement points close to the A177 have levels that would be higher than recommended external noise levels (55dB(A)) and as a result the noise survey has recommended the installation of a fence to act as a barrier to these properties close to the A177 as this will reduce noise levels sufficiently to ensure that they are in line with the recommended external noise level. The Council's Noise Officer has accepted that the installation of acoustic fencing would be acceptable to ensure future residents do not experience any adverse noise impacts from the A177.

81. The other aspect to be considered was the noise levels further into the site that may be more affected by noise from the A1(M). Noise readings in the submitted noise survey indicated the levels would be below the maximum level of 55dB(A). These figures were disputed by some local residents, and subsequently the Council's Noise Officer undertook some independent noise readings over a set period of time. These readings were sporadic but did indicate that some noise levels resulting from the A1(M) did exceed the recommended 55dB(A) level. Whilst it is noted that the noise level would be over the recommended threshold it is also noted that this noise is already present and any prospective homeowners would be aware of the situation when purchasing a property. Allowing residential properties to be situated adjacent to the A1(M) is also not uncommon and there are examples nearby in Bowburn, Carrville and Belmont where properties have been allowed directly adjacent to the A1(M). It is noted that there are properties within the village of Coxhoe itself that are closer to the A1(M) than this proposed site. On balance, it is acknowledged that the external noise levels would be over the recommended threshold. However in this instance it is considered that prospective buyers would be aware of the noise issue when purchasing properties in this location, therefore it is not considered that residential amenity of future occupiers would be adversely compromised. A number of conditions have been recommended by the Environmental Health Officer in respect of noise lighting, dust suppression and development construction methods. The majority of these issues would be covered through separate Environmental Health legislation and it not considered relevant to be imposed as planning conditions. It is noted that the mitigation noise methods detailed in the submitted noise survey are essential, and therefore a condition is recommended ensuring these methods are put in place.

82. Overall, it is considered that the proposed development would not have an adverse impact on the residential amenities of existing and future occupiers of neighbouring properties and the proposed dwellings. The proposal would be in accordance with policies H13 and Q8 of the local plan.

#### Visual impact

83. The application has been submitted in outline therefore there are no specific details in terms of design and layout. It is considered however that a residential development can be achieved on site which would be in keeping with the built environment of the existing properties in Coxhoe and would not adversely impact on the landscape character of the area. Landscaping of the site is not included within the outline submission and full landscaping details would be submitted for consideration with a reserved matters application. It would be expected that significant structural planting is incorporated into a reserved matters scheme.

## Other issues

84. The Council's Archaeology Officer has been consulted on the proposed development. No objections have been raised however further investigation works has been requested prior to works commencing on site. Conditions are recommended accordingly and it is considered that the proposed development would not adversely impact on archaeology issues.
85. There has been some local objection to the proposed scheme indicating that a residential scheme would result in the loss of view to some neighbours and the devaluation of neighbouring properties. It has also been indicated by some residents that there is a legal easement/covenant which restricts development on this land. These issues are not material planning considerations and cannot be used as reasons to refuse planning permission.

---

## CONCLUSION

---

86. The proposed development would not strictly accord with existing local plan policy H3. Development within Coxhoe and this particular site does comply with the NPPF objective of locating housing in suitable locations which offer a good range of community facilities and with good access to jobs, key services and infrastructure. The proposal for residential development is therefore considered acceptable in principle and would be in line with the sustainable objectives of the NPPF.
87. The Highways Authority has confirmed that the access into the site would be acceptable and the surrounding road network can accommodate the proposed development of up to 50 houses. It is considered that highway safety would not be compromised as a result of the proposed development and the proposal would be in accordance with policy T1 of the City of Durham Local Plan.
88. The proposed development would deliver the full amount of affordable housing (20%) on the site. The scheme would also ensure open space/recreational provision is provided for either on-site or commuted sum payments towards off-site provision. A commuted sum payment of £35,000 towards public art would also be secured. All these elements would be secured through a section 106 legal agreement in line with policies R1, R2, Q15 and H12 of the City of Durham Local Plan as well as criteria within the NPPF.
89. Detailed ecology surveys have been submitted primarily in respect of bats and Great Crested Newts (GCN). Subject to extensive mitigation measures which includes the translocation of GCNs to a new wetland habitat area, County Ecologist consider that the proposed development would not adversely impact on protected species and would likely to receive a Natural England license. It is therefore considered that the proposed development would be in accordance with part 11 of the NPPF.
90. Although this is an outline application, it is considered that the parameters set out in the masterplan and the design and access statement does provide sufficient confidence that a high quality layout and design framework can be provided and appropriately accommodated in amenity terms. In respect of noise issues, whilst the Council's Noise Officer has accepted that noise levels from the A1(M) would be over the normal threshold for external areas, it is accepted in this instance that the benefits which the scheme provides can outweigh the increased noise levels.

It is also noted that it would be for prospective house buyers to decide on whether the noise levels from the A1(M) is acceptable when they are purchasing the properties. Overall, the proposed development would not have an adverse impact on the residential amenities of existing and future occupiers of the proposed properties and existing neighbouring dwellings. The development is considered to be in accordance with policies H13 and Q8 of City of Durham Local Plan.

91. It is acknowledged that the proposal has generated some opposition from local residents which live close to the site. These concerns have been considered in the report and notwithstanding the points raised it is felt that sufficient benefits and mitigation measures are contained within the scheme to render it acceptable in planning terms and worthy of support. It is also noted that there have been no substantial objections made from any statutory consultee bodies.

---

## RECOMMENDATION

---

That Members are minded to **APPROVE** the application subject to the completion of a Section 106 Legal Agreement to secure the provision of 20% affordable housing; a financial contribution towards open space and recreation provision in the locality; a public art contribution of £35,000; and details of the ecological mitigation for the translocation of Great Crested Newts to off-site wetland habitat and the long term management of the wetland habitat area; and subject to the following conditions;

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

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

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

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

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

<b>Plan Ref No.</b>	<b>Description</b>	<b>Date Received</b>
VN50412-PD-001	Proposed Site Access	27/02/2014
RG-M-02 A	Site Location Plan	27/02/2014

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

4. Prior to the commencement of the development intrusive site investigation works in relation to the coal mining risk assessment of the site shall be undertaken. Should



these investigation works confirm the need for remedial works, the proposed details of the remedial works shall be 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 stability of the site and to comply with policy H13 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. 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 fieldwork 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.

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

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

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

*Reason: to comply with para. 141 of the NPPF which ensures information gathered becomes publicly accessible.*

8. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Bat Risk Assessment prepared by Penn Associates dated June 2014.

*Reason: To conserve protected species and their habitat in accordance with the objectives of part 11 of the NPPF.*

9. The development hereby approved shall be carried out in full accordance with all noise attenuation measures, advice and recommendations within the Noise Impact Assessment prepared by Environmental Noise Solutions Limited dated 14<sup>th</sup> October 2013 and the Noise Impact Assessment Addendum prepared by Environmental Noise Solutions Limited dated 12<sup>th</sup> November 2014.

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

10. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

*Reason: In the interests of the appearance of the area and to comply with policies E1, E2, E2A, and H13 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. The decision has been made in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

---

## **BACKGROUND PAPERS**

---

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





# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	<b>DM/15/01101/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Demolition of garage units and redevelopment to provide 55 bed student accommodation and associated communal and ancillary facilities</b>
<b>NAME OF APPLICANT:</b>	<b>3R Land &amp; Property</b>
<b>ADDRESS:</b>	<b>Land to the Rear of 21 Market Place, Durham.</b>
<b>ELECTORAL DIVISION:</b>	<b>Elvet and Gilesgate</b>
<b>CASE OFFICER:</b>	<b>Chris Baxter</b> <b>Senior Planning Officer</b> <b>03000 263944</b> <a href="mailto:chris.baxter@durham.gov.uk">chris.baxter@durham.gov.uk</a>

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. The application site is an area of land to the rear of 21 Market Place in Durham, which is also known as Back Silver Street. The site is unkempt with several mature trees and shrubbery and there are several garage blocks along the west boundary.
2. The site lies within the Durham City Conservation Area and is also close to the Durham Castle and Cathedral World Heritage Site. To the east of the site are the commercial buildings which face onto the Market Place. Durham Indoor Market and the Wiff Waff bar are located directly to the north of the site. Commercial properties are located to the south with residential apartments, known as Clements Wharf, immediately to the west with the River Wear situated beyond.
3. The site itself steps down in a series of terraces from the rear of the buildings along Market Place down to Back Silver Street, and is restrained in several places by extensive buttressed retaining walls. These split the site into numerous small parcels of land, some level, and some excessive gradients. Within these areas there are a number of fire escape stairways from the rear of Market Place which cut through to the lower level footpath to the west of the site.

### The Proposal

4. Planning permission is sought for the erection of 18no. apartment/studios containing in total 55no. bed spaces, along with living/dining/kitchen and bathroom facilities. The building is proposed to be 5 storey's in height, approximately 13.5 metres high when measured from Back Silver Street. The building is divided into 5 blocks and have stepped roofscape and staggered building line.

5. The proposed materials will predominately be rustic red facing brickwork with a modern slate roof, aluminium windows and rainwater goods. Cycle parking and bin stores are provided within the building and two disabled parking bays are provided adjacent to the site.
6. This application is referred to the Planning Committee as it constitutes a major planning application.

---

## **PLANNING HISTORY**

---

7. Two applications were submitted in 2002 for residential accommodation on part of the site which involved the erection of four storey blocks. Both these applications were refused at planning committees.
8. An application for a five storey building for a mix of commercial and residential on this site was submitted in 2008. This application was recommended for approval by Officers and subsequently refused by a planning committee. This refusal decision was appealed to the Secretary of State and the appeal was allowed. This permission has since lapsed.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY:**

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

15. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 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.
17. *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.
18. *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.
19. *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**

20. *Policy E3 (World Heritage Site) Protection* seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
21. *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.
22. *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.

23. *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.
24. *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.
25. *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.
26. *Policy E23 (Listed Buildings)* seeks to safeguard listed buildings and their settings.
27. *Policy H7 (City Centre Housing)* seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
28. *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.
29. *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.
30. *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.
31. *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.
32. *Policy T20 (Cycle facilities)* seeks to encourage appropriately located, secure parking provision for cyclists
33. *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.

34. 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.
35. 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.
36. 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.
37. Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
38. Policy 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
39. *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.
40. *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.
41. 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.
42. 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.
43. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

#### **RELEVANT EMERGING POLICY**

44. 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:**

45. *County Highways Authority* – awaiting response on the latest revised drawings. Update to be made at the committee meeting.
46. *Durham University* have objected to the proposed development with the primary reasons being the need for student accommodation and impact on the World Heritage Site.
47. *Historic England* has raised no objections.
48. *Environment Agency* has not raised any objections.
49. *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.
50. *Police Architectural Liaison* has provided advice in terms of safety and security around the site.
51. *The Coal Authority* has not raised any objections.

### **INTERNAL CONSULTEE RESPONSES:**

52. *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.
53. *Sustainability Officer* has not raised any objections to the scheme. A condition is recommended for embedding sustainability within the development.
54. *Environmental Management (Contamination)* has not raised any objections subject to a condition requiring the submission of a contamination site investigation report.
55. *Environmental Management (Noise)* has not raised any objections.
56. *Environmental Management (Air Quality)* has not raised any objections.

57. *Ecologist* has not raised any objections to the proposed development.
58. *Design and Conservation* has not raised any objections to the proposed scheme.
59. *Landscape Team* has not raised any objections to the proposed scheme.
60. *Tree Officer* has not raised any objections to the proposed scheme.
61. *Drainage Officer* has not raised any objections to the proposed scheme.
62. *Targeted Recruitment Training* has provided advice with regards to employment opportunities and training for the proposed development.
63. *Spatial Planning Policy* has not raised any objections to the proposed development.

#### **PUBLIC RESPONSES:**

64. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. 5 letters of representation have been received from local residents. Letters have also been received from the World Heritage Site Co-ordinator and City of Durham Trust, both of which are objecting to the scheme.
65. Concerns are raised in relation to the overconcentration of students and the potential for anti-social behaviour which can arise from students living in the area.
66. 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 and insufficient amenity space would not be provided within the scheme. There are concerns that the proposal would result in the loss of privacy to neighbouring properties.
67. It has also been questioned whether there is a need for student accommodation, and that there is no evidence that Homes in Multiple Occupancy (HMO) will become vacant as a result of Purpose Built Student Accommodation (PBSA). A local resident feels that there is no guarantee that this development will be occupied by students. It is also not considered that the development would benefit the local economy.
68. Previous applications on this site, in particular the 2002 applications, have been noted by objectors indicating that these schemes were refused on scale and height, and impact on the conservation area.

#### **APPLICANTS STATEMENT:**

69. The proposed development seeks the re-use of a derelict brownfield site in a key city centre location at Back Silver Street. Such development on previously developed land is important to maintain the vitality of the city centre and reduces pressure on greenfield sites.
70. Back Silver Street and Fowler's Yard has been the subject of regeneration efforts in recent years, including public realm improvements, and the area currently hosts a range of independent businesses. The proposals will assist in creating a gateway

into this creative part of the city and this high-quality building will make a positive contribution to the appearance of the wider area in sharp contrast to its current role. The proposals are estimated to provide £170,000 additional expenditure per year, representing a substantial boost to local trade and business.

71. The proposed apartments and studios will be owned and operated by a local, family run business in Q Student who have a portfolio of over 60 student properties in the City. The design provides high quality apartments and studios which are expected to be popular with more mature undergraduates and post graduates.
72. The design ensures that the development will sit comfortably within its surroundings, respecting its sensitive setting within Durham's historic cityscape. The views of the building from the west of the river and the Milburngate and Framwellgate bridges have influenced the design greatly and the proposals acknowledge the prominence of the site within its wider context
73. The scale, massing and quantity of development have been carefully considered to reflect the site's location within the centre of the city. Furthermore the impact on nearby residents and businesses has been considered through the submission of draft Construction Management and Student Management plans which the developer is willing to discuss with the Council in order to ensure that disruptions are minimised.
74. The proposals represent a highly sustainable form of development which will provide high quality accommodation scheme in the place of a derelict brownfield site

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

75. 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.

### Principle of development

76. The application proposes the erection of a purpose built student accommodation development on land within 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.
77. 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.

78. 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 on sustainability grounds as the site is well located in terms of local services and within easy walking distance of bus routes, local shops and University buildings.
79. 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 commercial buildings surrounding the site and residential apartments to the west. The local area can therefore be considered to have a mixed use character which could be expected in the City Centre.
80. Given the above it is considered that the site is sustainably located in an area which has an existing mix of uses. 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. 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.
81. 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 in the paragraph below there was an amended version of Policy 32 of the CDP which introduced a requirement for the demonstration of need for student accommodation however legal advice confirms that no weight should be given to this policy.
82. Policy 32 of the Submission Draft version (April 2014) County Durham Plan 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 policy 32 of the emerging County Durham Plan.

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

83. The application site is presently unkempt including a disused and vandalised garage block which detracts from the entrance into Fowlers Yard and the regeneration works undertaken in recent times. Due to this, the site is considered to make no positive contribution to the area. Historic map reveals former buildings on the site, however these were cleared in the 1970's. The site is considered significant as a component of the conservation area, in forming part of the wider setting of Durham Cathedral and Castle World Heritage site, and in being within the context and setting of a number of listed buildings. The site is also significant in terms of visibility from a number of local and wider viewpoints from within and around the western part of the city centre.
84. The layout and arrangement of the development relates effectively to the site and its surrounding, the blocks orientated and arranged to follow the historic urban grain, and providing a strong frontage presence. The building composition is influenced

and representative of the simple shapes and widths of the historic plot pattern to the rear which is appropriate. The incorporation of variants to the roof form, the breaking up of the façade by the use of smaller blocks flanking the larger blocks, voids between the blocks, and through building line modulation would break up the perceived scale and massing.

85. The 5 storey blocks would be greater in height than a number of the surrounding buildings at street level, but they would not appear unduly excessive when considered in the context of the Market Hall and the riverside apartment block, as well as the industrial warehouse buildings fronting Fowlers Yard. The large scale of the whole development is acknowledged, however at this particular site development must fill the entire space with sufficient height, floor volume and articulated roofscape, key to successful townscape integrated, which is demonstrated in the proposals. A lower scaled development seen in isolation and not interacting with the unique roofscape would be out of keeping with the characteristics of the area. The scale and massing also ensures that the development responds to the sheer mass of the Market Hall being subordinate yet adding to the strong sense of enclosure, a further defining characteristic of the locality. In design terms, the development would respect the local development pattern in this part of the city and would successfully integrate into the wider cityscape. The roofscape would be the most visible aspect of the development and this has been well considered in the design solution with the rhythm of the gables mirroring those of the adjacent market hall while responding positively to the roof forms cascading loosely down from the Market Place.
86. Redevelopment of the site will undoubtedly have an impact on designated elements of the townscape; most important of these is the Durham World Heritage Site. The principle views towards the Cathedral and Castle most directly affected by the proposed development are those looking southeast towards the site from Leazes Road Bridge, east from Milburngate and the riverside, and in views northwards from either end of Framwellgate Bridge. In these views the development would undoubtedly feature, however it would be seen against a complex and varied urban background displaying numerous phases of expansion and extension incorporating varied roof forms cascading down to riverside level. The development would be in keeping with this context responding to the visual hierarchy, while being absorbed into the background architecture. It would sit well below the skyline without challenging the visual drama or dominance of Durham Cathedral and Castle, and without intruding or disrupting any direct sight lines towards the heritage assets. On balance, the proposals impact upon the World Heritage Site is considered to be mitigated to an acceptable level. It could be argued that the proposal improves the setting of the World Heritage Site, by infilling a noticeable gap in the dense urban fabric and roofscape with an appropriately designed and integrated development.
87. The development will result in the loss of a site which makes no positive contribution to the surrounding conservation area; therefore appropriate redevelopment would be considered to have a positive effect. From surrounding views, the majority of the development is largely screened by existing buildings. The most dominant aspect of the development to be read in surrounding views would be the roofscape but this has been addressed in the formulation of the design creating articulated forms that would not appear overpowering and would be in keeping with the unique roofscape, an integral part of the character of the city and its varied skyline. In view of the above, the wider visual impact upon the conservation area is considered to be negated. The development would be considered to enhance the street frontage, as the site is presently of poor quality which detracts from the public realm and the overall character of this unique part of the city, thus development would be considered wholly positive at a local level.

88. The listed buildings most obvious in surrounding public views are the Church of St Nicholass (Grade II), Town Hall and Guild Hall (Grade II\*), Market Hall (Grade II), Durham Castle, predominantly the north range (Grade I), Durham Cathedrals westend and the central tower (Grade I), and Framwellgate Bridge (Grade I & Scheduled Monument). The other nearby listed buildings such as Nos 19 to 25 Market Place (all individually listed Grade II) are more difficult to distinguish within the densely built up rear environment. The proposals would have no direct impact upon these heritage assets; however given the intervisibility between the listed buildings and the site the proposals will affect their setting and be seen in relation to them. In considering this, due to the sites lower level position and resulting visual separation this creates, as well as the density and diversity of the surrounding urban form, the proposed development would not adversely affect the listed buildings prominence within the townscape. The development would clearly not affect any significant nonvisual factors such as their historic interest, relationships and the understanding of their past. Given the above the development is not considered to compete with or affect the setting of the surrounding listed buildings.
89. 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, E23 and E22 of the local plan and in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
90. Details within the design and access statement do indicate that the building is to be constructed predominately from rustic red facing brickwork, modern slate roof and aluminium windows and rainwater goods. It is noted that natural slate would be a preferred option. No specific details have been submitted however therefore a condition is recommended for final materials to be agreed.

#### Impact on residential amenity

91. 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 closest properties.
92. 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.
93. 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 proposed accommodation would be managed by Q Student, who are a well-established student lettings company based in Durham and are already responsible for over 60 properties across the City. A student management plan has been submitted with this planning application. This management plan would

implement measures on site, such as, full time general management, complaints procedures, apartment management, management of communal areas and traffic management. There are restrictions in this area with regards to highway traffic, loading and unloading, and this street can become busy with commercial deliveries. It is considered more details are required in terms of the traffic management of the scheme, especially at the beginning and end of term times when students will be required to load and unload vehicles. An addendum is therefore required to the student management plan for further details to the traffic management. A condition is recommended accordingly.

94. 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 without the control of a strong management structure, relying purely on other legislative controls. Notwithstanding existing controls 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 a full management plan is implemented and maintained in perpetuity.

95. Policy Q8 considers that in order to provide adequate levels of amenity and in order to maintain privacy, 21 metres should be achieved between main windows serving habitable rooms. The majority of the proposed windows face west onto existing commercial buildings and the residential apartments in Clements Wharf. The separation distances between the proposed windows and the residential apartments would be 13 metres and 10 metres at two separate points. The architect for the scheme has acknowledged these reduced separation distances and have designed angled windows on the front elevations so the proposed windows do not directly overlook the residential apartments. Given these angled window designs, it is not considered that the existing apartments would experience any significant loss of privacy.

96. 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

97. The proposed development is within an accessible location for sustainable transport modes, being close to public transport facilities and with good links to the University facilities. No parking spaces are to be provided for residents other than the provision of disabled parking.

98. The Highways Officer has commented on the scheme indicating that the main challenges to this development are the access arrangements for construction, servicing and safe pedestrian and cyclist movement. Vehicular, pedestrian, and cycle access would all be required from Back Silver Street as there is no access to the development direct from Market Place or Silver Street.

99. Back Silver Street is a narrow restricted carriageway with limited vehicular access. It carries no waiting/loading restrictions throughout and has 'Keep Clear' markings to the edge of the carriageway outside Durham Markets. Inconsiderate loading and parking demand in the street has resulted in obstruction hence the road markings. Back Silver Street and Fowlers Yard are adopted highways although there is a paved



area adjacent to the site which is not adopted. The proposed plans submitted do indicate that a paving scheme to the satisfaction of the local authority would be introduced on Back Silver Street including non-adopted land. To ensure the safety of pedestrians and safe egress from the development it is essential that an adequate paving scheme is achieved. A condition is therefore recommended for a paving scheme to be submitted prior to any works commencing on site. This paving scheme would also need to include removal of the existing bin store and construction of a footway from Durham Markets to the development.

100. The proposed development would provide some cycle parking within a covered area in the proposed building to be shared with the bin store area. The Highways Officer considers this to be unacceptable and extremely poor design and would not encourage this mode of transport. There are also no facilities for short stay cycle parking. The Highways Officer has stated that the lack of quality cycle parking provision is extremely disappointing for a student development where the Council seek to promote and support cycling as a viable mode of transport. Therefore the Highways Officer has indicated that he cannot support the application on this basis.

101. Whilst it is acknowledged that the poor level of cycle parking provision for this scheme is disappointing, this element of the scheme does need to be weighed against the benefits of the scheme. The site is an unkempt site which currently detracts from the character and appearance of the conservation area, surrounding listed buildings and the setting of the World Heritage Site. The development has clear benefits in providing a quality scheme which enhances the character, appearance and setting of the surrounding area and heritage assets. Given the restrictions of the site, in terms of varying levels, this has only allowed for the scheme to have an active frontage to the west. As previously described, it is disappointing that the cycle parking provision is poor, however it is noted that cycle parking provision has been incorporated into the scheme. There are clear benefits in visual terms that the development brings to the surrounding area. On balance, it is not considered that the poor cycle parking provision is a sufficient reason to refuse permission in this instance.

102. It is also noted that due to the access restrictions in this area, construction of the site will be difficult. To ensure no negative impacts are experienced by existing business users in the area during construction phase, it is essential that a construction management plan is produced which highlights how and when deliveries will take place. A condition is recommended accordingly for the submission of a construction management plan to be submitted prior to works commencing on site.

103. Given the above, it is considered that the proposed development would not have an adverse impact on highway safety in the area and although there is poor cycling parking, on balance the scheme is considered acceptable. The proposal would not be contrary to policies T1, T10, and T21 of the local plan.

## Ecology

104. 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.

105. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and where this is likely to be an interference with an EPS must 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.
106. A Phase 1 Habitat Survey of the site has been submitted with the application. This survey concludes that the site is poor in terms of habitat structure and wildlife value. The existing garage structures and the trees on site do not have any suitable bat roosting features. The submitted survey has been analysed by the County Ecologist. The County Ecologist has confirmed that there are no objections to the findings of the survey. 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

107. 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.
108. 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. The developer has agreed to pay a commuted sum of £18,648 towards open/recreational space and to pay a contribution of 1% of build costs towards public art. It is therefore recommended that permission is granted subject to the completion 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**

---

109. The proposed development is considered acceptable in principle as it is sustainably located in an area which has an existing mix of uses. The land is located within the defined settlement boundaries and is not allocated for a specific use. 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.
110. The proposed development has been sensitively designed and it is considered that the proposal would enhance the character and setting of the Durham City Conservation Area and would not have an adverse impact on the appearance of the surrounding area. There would be no adverse impacts upon the setting of nearby listed building or the Durham World Heritage Site. The is currently unkempt and the proposed scheme would greatly improve the appearance of this area. Overall the proposal is considered to be in accordance with policies E1, E3, E6, E10, E22, E23 and E24 of the local plan.

111. 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.

112. The site is considered to be in a sustainable location with good pedestrian and public transport links to shops, services and public facilities. Improvements to the surrounding pavements are to be made which will be to the benefit of pedestrians. The proposed cycle parking provision is considered poor however this substandard provision is outweighed by the clear benefits the development brings in terms of impacts on the conservation area. 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 and T21 of the local plan.

---

## **RECOMMENDATION**

---

That the application be **APPROVED** subject to the completion 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:

<b>Plan Ref No.</b>	<b>Description</b>	<b>Date Received</b>
P-100 A	Block Plan/Roof Plan	06/07/2015
P-102 A	Proposed Second/Third Floor Plans	06/07/2015
P-103 A	Proposed Fourth Floor/Roof Plans	06/07/2015
P-106 A	Proposed Site Sections BB and CC	06/07/2015
P-107 A	Proposed Site Section DD	06/07/2015
001	Site Location Plan	09/04/2015
P-104 A	Proposed Street Elevation (AA)	06/07/2015
P-101 A	Proposed Ground/First Floor Plans	06/07/2015
P-105 A	Proposed North, South and East Elevations	06/07/2015
	Student Accommodation Management Statement by Q Student	09/04/2015

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

3. No development shall take place until a paving scheme for the land west of the site, which includes removal of the existing bin store and construction of a footway from Durham Markets to the development site, has been submitted to and approved in

writing by the local planning authority. The building must not be occupied until the completion of approved scheme.

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

4. No development shall take place until a construction management plan, which identifies delivery operations, has been submitted to and approved in writing by the local planning authority. The construction of the development shall be carried out in accordance with the approved details.

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

5. 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.*

6. 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.*

7. No development approved by this permission shall be commenced until:
  - a) the application site has been subjected to a phase 1 preliminary risk assessment (desk top study) to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site and has been submitted to and approved by the LPA;
  - b) should the potential for contamination be identified a detailed site investigation report of the site including investigation and recording of contamination shall be submitted to and approved by the LPA;
  - c) 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;
  - d) 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;
  - e) 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
  - f) 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 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.*

9. 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.*

10. 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.*

11. Notwithstanding the details submitted within the application no development shall commence until an addendum report to the submitted Student Accommodation Management Statement by Q Student (dated 4<sup>th</sup> March 2015), detailing specific traffic management procedures, has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the agreed details, with adherence to the agreed management scheme in perpetuity.

*Reason: In the interests of reducing the potential for harm to residential amenity, anti-social behaviour or the fear of such behaviour within the community and in the interests of highway safety having regards Policies T1, H16 and H13 of the City of Durham Local Plan 2004.*

---

## **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.

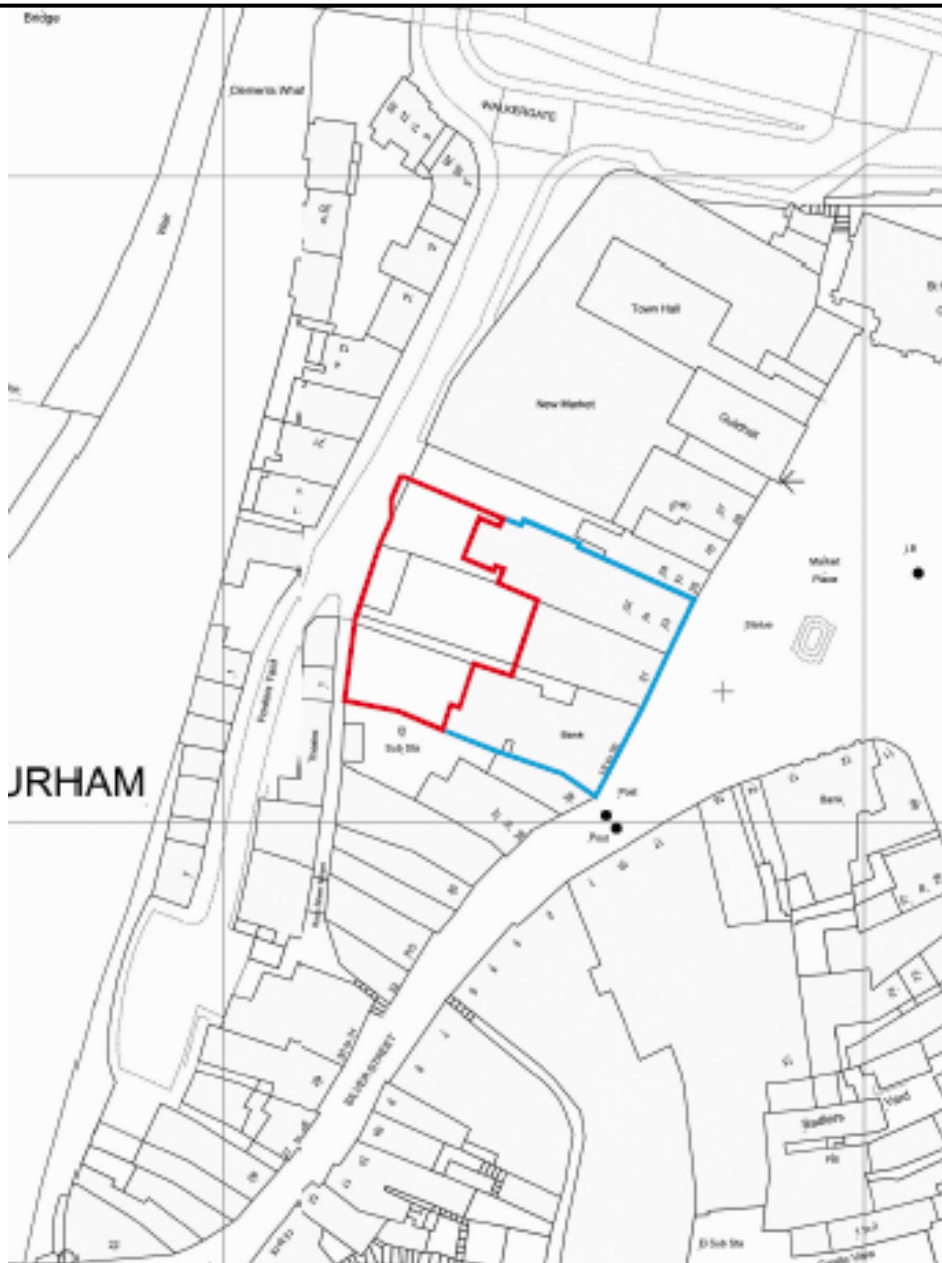
---

## **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**

**Demolition of garage units and redevelopment to provide 56 bed student accommodation and associated communal and ancillary facilities at land to the Rear of 21 Market Place, Durham.**

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.  
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.  
 Durham County Council Licence No. 100022202 2005

**Date**  
**14<sup>th</sup> July 2015**

This page is intentionally left blank



# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION No:</b>	DM/15/01090/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Residential development comprising 44 houses (outline)
<b>NAME OF APPLICANT:</b>	Mr R Dunn
<b>ADDRESS:</b>	Land to the south east of Brackenhill Avenue, Shotton Colliery
<b>ELECTORAL DIVISION:</b>	Shotton and South Hetton
<b>CASE OFFICER:</b>	Barry Gavillet, Senior Planning Officer, 03000 261958, barry.gavillet@durham.gov.uk

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### Site:

1. This application site is approximately 1.3 hectares in size and is located within the Electoral Division of Shotton and South Hetton. The site is agricultural grazing land and is therefore a greenfield site, it is also located outside of the Shotton settlement boundary as identified in the District of Easington Local Plan and is therefore classed as being in the countryside.
2. The site is located south east of a terrace of houses known as Brackenhill Avenue and there are large detached properties to the rear of the terrace. The site is orientated on a north west to south east axis along Shotton Lane that would form the frontage of the proposed development and from which vehicular access would be taken.
3. To the north of the application site is agricultural grazing land with the Whitehouse and Brackenhill Business Parks immediately to the east. To the south the application site boundary is bound by a hedgerow which separates the site from a livery business. To the west of the site is agricultural land and two sites where caravans are located for occupation by gypsy and traveller families.

### Proposal:

4. Members will recall that an identical proposal was refused by the Central and East Planning Committee in July 2014 on the basis that the proposals would have an adverse landscape impact and that the location of the development was unsustainable. Subsequently an appeal was lodged and the inspector concluded that he did not agree with the Councils decision and that the proposals were acceptable. However, the inspector could not uphold the appeal on a technicality as there was no draft Section 106 agreement in place which was required to secure community benefits and affordable housing and therefore the appeal failed. This application proposes an identical residential development to the one previously submitted which the inspector found acceptable, however in this instance the applicant has agreed to

the necessary contributions toward recreation, ecology and affordable housing and draft heads of terms have been submitted.

5. The application proposes a residential development of up to 44 dwellings and is an outline application with all matters including access, appearance, landscaping, layout and scale reserved for future determination. The applicant has provided an indicative site layout plan which shows access coming off Shotton Lane which bounds the site to the north east. The plan also shows cul-de-sac type development which includes a mixture of house types including terraces, semi-detached and detached properties. All properties would have garaging or off-street parking along with garden areas to the front and rear.
6. This application is being reported to committee as it is classed as a major development.

---

## **PLANNING HISTORY**

---

7. Two previous applications (PL/5/2011/0138 and PL/5/2012/0078) for four dwellings within the current application site were submitted and subsequently withdrawn. In addition, an application for 44 dwellings (DM/14/00249/OUT) has been refused at appeal as explained above.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY**

8. 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.
9. 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’ .
10. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

The following elements of the NPPF are considered relevant to this proposal;

11. *Part 1* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
12. *Part 4* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different

policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

13. *Part 6* - To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
14. *Part 7* - 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.
15. *Part 8* - 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.
16. *Part 10* - Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and *associated* infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
17. *Part 11* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

## **LOCAL PLAN POLICY:**

### District of Easington Local Plan

18. *Policy 1*- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
19. *Policy 3* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
20. *Policy 35* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

21. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
22. *Policy 37* - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).
23. *Policy 66* - Developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site.
24. *Policy 67* - Housing development will be approved on previously developed land within settlement boundaries of established towns or villages provided the proposal is of appropriate scale and character and does not conflict with other policies in the plan.
25. *Policy 74* - Public Rights of Way will be improved, maintained and protected from development. Where development is considered acceptable, an appropriate landscaped alternative shall be provided.

## **RELEVANT EMERGING POLICY:**

### The County Durham Plan

26. 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.
27. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
28. *Policy 15 (Development on unallocated sites)* – States that development on unallocated sites will be permitted on the basis that they are appropriate in scale, design and location to the character and function of the settlement, they do not result in the settlements last community facility, would not prejudice the intended use of adjacent sites and land uses and that they are not in the countryside.
29. *Policy 18 (Local Amenity)* – In order to protect the amenity of people living and/or working in the vicinity of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity

such as by way of noise, vibration, odour, dust, fumes, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.

30. *Policy 30 (Housing Land Allocations)* – In order to meet the housing requirement a number of sites have been allocated for housing. Planning applications for housing submitted on these sites that are in accordance with site specific and phasing requirements will be approved. Applications submitted in advance of its phasing will be approved where they do not prejudice delivery of other allocated sites phased in an earlier time period, where they are required to maintain a five year supply of deliverable sites and where infrastructure requirements can be satisfactorily addressed.
31. *Policy 35 (Development in the Countryside)* – Sets out that new development will be directed to sites within built up areas, or sites allocated for development, whilst the countryside will be protected from inappropriate development.
32. *Policy 39 (Landscape Character)* – States that proposals for new development will only be permitted where they would not cause significant harm to the character, quality or distinctiveness of the landscape, or to important features or views, unless the benefits of the development clearly outweigh its impacts.
33. *Policy 47 (Contaminated and Unstable Land)* – Sets out that development will not be permitted unless the developer can demonstrate that any contaminated or unstable land issues will be addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact upon human health, and the built and natural environment.
34. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.*

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

### **STATUTORY RESPONSES:**

35. The Environment Agency have no objections to the proposals subject to conditions relating to contaminated land.
36. Northumbrian Water have no objections to the proposals subject to a scheme for surface and foul water being submitted before commencement of development.
37. Natural England have no objections to the proposals subject to mitigation relating to protection of European Protected sites on the coast.

### **INTERNAL CONSULTEE RESPONSES:**

38. Education officers have confirmed that school capacity in the area is sufficient and therefore no contributions are required.

39. Pollution control have no objections subject to conditions relating to contaminated land and noise.
40. The Housing Development and Delivery team state that 10% affordable housing should be provided on site.
41. Landscape and tree officers have no objections to the proposals.
42. Highways Officers state that on site car parking provision, footpath provision and access as shown on the indicative layout are all acceptable. However, access and layout are reserved matters which would be considered at a later date should this outline application be approved.
43. Ecology officers have no objections to the proposals subject to mitigation relating to protection of European Protected sites on the coast.
44. Policy officers have no objections to the proposals in light of the inspectors report.

**PUBLIC RESPONSES:**

45. This application has been advertised by way of press notices, site notices and letters to individual residents. One letter of objection have been received from nearby residents.
46. The main reasons of concern are that the proposals would result in an increase in traffic and highway safety issues, that the proposals would lead to a loss of ecology and that the greenfield nature of the site makes it unsuitable for housing development.

**APPLICANTS STATEMENT:**

47. This outline planning application is a resubmission of an earlier application following an appeal in which the Inspector found wholly in favour of the development but was unable to uphold the appeal decision in the absence of a s106 agreement.
48. The re-submission in all respects remains as per the original planning application for 44 residential dwellings located off Brackenhill Avenue, Shotton.
49. This outline application is consistent with the NPPF both in terms of sustainability and its contribution toward the requirement for the local authority to be able to demonstrate and provide a rolling programme of sites suitable and capable of delivery over the next 5 years.
50. There are no identified prohibiting technical reasons likely to prevent the delivery of the proposed development within the next five years nor are there any significant adverse constraints or threats to: local ecology or habitat; flooding; the local neighbourhood or surrounding environment that are likely to delay progress on the development going forward.
51. The application site affords easy access to: local shops; schools; health and community facilities; is well located in terms of primary public transport routes; and the employment and work opportunities available on the nearby industrial and business areas of Peterlee.
52. The proposed development will provide a choice of affordable and aspirational housing options with some 75% of the dwellings proposed comprising 2 -3 bed

terraces and smaller 2 – 3 bed semi-detached properties to meet the predicted future demand for smaller family sized homes within the North and East Durham sub-area identified in the updated County Durham Strategic Housing Market Assessment.

53. The proposed development will deliver tangible social and economic benefits for the community good through the provision of 10% affordable housing and financial contributions to the Heritage Coast Management Plan and open play space.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

54. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the previously submitted planning application, the subsequent inspectors report and section 106 contributions.

### **Background and inspectors report**

55. This planning application seeks outline permission for residential development comprising of 44 units. An earlier planning application (DM/14/00249/OUT) was refused planning permission by planning committee, contrary to the Officer recommendation of approval. Subsequently an appeal was lodged and the inspector concluded that he did not agree with the Councils decision and that the proposals were acceptable. However, the inspector could not uphold the appeal on a technicality as there was no draft Section 106 agreement in place which was required to secure community benefits and affordable housing and therefore the appeal failed.
56. The Inspector appointed for the recent appeal considered that there were two main issues which were those relating to the reasons for refusal given by the planning committee:
- whether the development would be in a sufficiently sustainable location to encourage alternative means of transport to the private car;
  - the effect of the proposal on the character and appearance of the area.
57. In terms of whether development would be in a sufficiently sustainable location, the Inspector gave a firm view on this issue at paragraph 6 of his decision letter where he concluded *“I consider that the walking distance to the shops and bus stops is not excessive, that the pedestrian footpaths to the facilities are largely adequate and that the site is in a sustainable location. There is little evidence to substantiate the Council’s claim that the location of the development would not encourage alternative means of travel to the private car”*.
58. The Inspector disagreed with the Council’s arguments that the site is not sustainably located as the distance to the nearest bus stops and shops is approximately 650m, and that this distance would encourage the use of the private car contrary to Policy 36 of the District of Easington Local Plan which encourages alternative modes of travel.

59. The Inspector went on to state at paragraph 7 of his decision that: *“the proposal would generate substantial social benefits through the provision of a mix of market and affordable houses in this sustainable location, helping to support the community of Shotton Colliery. Significant economic gains would also be provided through the investment in the local economy during the construction and by the ongoing support for local businesses from future occupants”*. Taking these findings into consideration it is clear that the site can be considered to be in a relatively sustainable location.
60. At paragraph 11 of the Inspector’s decision it was acknowledged that the appeal site is outside the Shotton Colliery settlement boundary and is, therefore, regarded as open countryside wherein Policy 3 of the Local Plan prohibits development other than where specifically allowed by other policies. However, the Inspector found that this Policy is not fully consistent with the policies in the National Planning Policy Framework as it is more restrictive. Therefore, less weight can be attributed to the proposal’s conflict with Policy 3.
61. Turning to the second key issue of the impact of the development on the landscape, the Inspector concluded (paragraph 14) that the impact of the development on the character and appearance of the area would not be significant and the important visual gap between the industrial estate and Shotton would be largely safeguarded. This represented direct disagreement with the Council’s view that development of the site would result in a significant adverse landscape and visual impact.
62. The Inspector ultimately concludes (Paragraph 18) that: *“The development would accord with many of the provisions of the Framework, including the need to boost the supply of housing and the presumption in favour of sustainable development. The development would result in the loss of green open space in the countryside. However, the harm to the landscape would be limited and would not significantly and demonstrably outweigh the benefits”*.
63. Notwithstanding the above, the Inspector ultimately had no choice but to dismiss the appeal as there was no S106 agreement to secure the infrastructure mitigation needed to make the scheme acceptable in planning terms, hence this current application which includes draft heads of terms involving financial contributions and affordable housing.

### **Section 106 contributions**

64. The NPPF states that, in order to ensure a wide choice of high-quality homes, Local Planning Authorities should “plan for a mix of housing”, “identify the size, type and tenure of housing that is required in particular locations”, and “where affordable housing is needed, set policies for meeting this need on site”.
65. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2012 and supplies the evidence base for 10% affordable housing across the East Durham Delivery Area (on sites of 15 or more dwellings/0.5 hectares or greater), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets. The SHMA and the NPPF therefore provide the justification for seeking affordable housing provision on this site, which should be secured via S106 agreement.
66. In addition to the above, saved policy 66 of the District of Easington Local Plan states that developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site. On this basis the applicant has agreed to make a



financial contribution of £22,000 towards the provision or improvement of offsite recreation.

67. Finally, the Local Planning Authority must also consider impacts on designated wildlife sites in the vicinity of the proposed development.
68. This application site is in close proximity to Durham Coast Site of Special Scientific Interest (SSSI). and Special Area of Conservation (SAC) Natura 2000 site and the Northumbria Coast SSSI, Special Protection Area (SPA) and Ramsar site, all of which are designations of significant importance.
69. Under normal circumstances the applicant would provide a contribution toward the upgrading or provision of footpaths and walkways in the vicinity of the site in order to take pressure from additional visitors away from the coastal designations of significant importance. Given that the applicant is not in control and any suitable land nearby it has not been possible to achieve this. Therefore, the applicant has agreed to provide a financial contribution of £11,000 to be used towards the objectives of the Coastal Management Plan in order to directly off-set the impacts of the development on the coast, this contribution would also be secured through a S106 Agreement.

---

## **CONCLUSION**

---

70. Taking of all these issues into account, it is clear that the independent inspector considers that the development of this site will comprise a sustainable form of development in the context of the NPPF, and the landscape impact will be within acceptable parameters. This largely endorses the position of officers in relation to the original application which concluded that the site was part of the built up area and development within a 2<sup>nd</sup> tier settlement would be largely sustainable, and compliant within the Council's paper: Assessing Development Proposals in County Durham.
71. Therefore given that this resubmission has the appropriate mechanisms (S106 Heads of Terms/Agreement) to secure the necessary contributions towards recreation, ecology and affordable housing it is recommended that the application be approved.

---

## **RECOMMENDATION**

---

That the application be **APPROVED** subject to the following conditions and subject to the entering into of a Section 106 legal agreement to secure the provision of:

- i. 10% affordable housing on site.
- ii. £11,000 contribution toward the objectives of the Coastal Management Plan
- iii. £22,000 contribution toward enhancement or provision of play facilities in the Shotton and South Hetton Electoral Division.

### **Conditions:**

1. Application for approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

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

2. Approval of the details of the access, layout, scale, appearance and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

3. The development hereby approved shall be carried out only in accordance with the approved plans and specifications contained within:

Site Location Plan received 21<sup>st</sup> April 2015.

*Reason: To meet the objectives of saved Policies 1, 35 and 36 of the Easington District Local Plan and parts 1 and 4 of the NPPF.*

4. No development shall take place until a site investigation and Desk top Study has been carried out in accordance with Part IIA of The Environmental Protection Act 1990. The results of the site investigation shall be submitted and approved in writing by the local planning authority. As a minimum requirement, the Desk Top Study should include the following information in relation to the study site:

- Historic Land Use
- Former contaminative site uses
- Typical contaminants from former industrial uses
- Watercourses, major underground aquifers, water source protection zones, at or close to the site
- Ground water, perched ground water
- Adjacent land uses and their historical land use, and potential to affect the study site
- All former holes in the ground on or close to the study site

If the desk top study determines there is no historical land use which may cause contamination of the site, no further action is required in relation to the contaminated land risk assessment. If any historical land use which may cause contamination of the site is found from the desk top study site investigation, a 'Phase 2 Report' will be required as detailed below.

#### Phase 2 Report

A further report shall be submitted to and approved in writing by the local planning authority. This report shall take into consideration the relevant aspects of the desk top study and discuss remediation measures in accordance with appropriate legislative guidance notes. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority

#### Phase 3 – Validation Report

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

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

5. Development shall not commence until a scheme for the disposal of surface and foul water from the development hereby approved has been submitted and approved by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

*Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and in accordance with saved Policy 1 of the Easington District Local Plan and part 10 of the NPPF.*

6. Prior to the commencement of development a scheme to minimise energy consumption in relation to that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in complete accordance with the approved scheme.

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

7. No development shall take place until a detailed acoustic report, carried out by a competent person in accordance with the current edition of BS 8233 and the WHO Guidelines on community noise, on the existing noise climate at the development site has been submitted to and been approved in writing by the Local Planning Authority. In the event that the acoustic report finds that the following noise levels would be exceeded a noise insulation scheme shall be submitted to and approved in writing by the Local Planning Authority:

- i) 55dB LAeq 16hr in outdoor living areas
- ii) 40dB LAeq 16hr in all rooms during the day-time (0700 - 2300)
- iii) 30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
- iv) 45 dB LAmax in bedrooms during the night-time (2300 - 0700)

The approved scheme shall be implemented prior to any occupation of the development and shall be permanently retained thereafter.

*Reason: In the interests of residential amenity in accordance with the aims of Policies 1 and 35 of the District of Easington Local Plan.*

8. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Preliminary Ecological Appraisal prepared by E3 Ecology Ltd (December 2013).

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

9. The approved development shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Very Civil Engineers.Com report number VCE1402/rep/001 and the mitigation measures detailed within the FRA. The relevant mitigation measures shall be fully implemented prior to occupation of the first dwelling of the development.

*Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and in accordance with saved Policy 1 of the Easington District Local Plan and part 10 of the NPPF.*

10. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

*Reason: In the interests of residential amenity in accordance with the aims of Policies 1 and 35 of the District of Easington Local Plan.*

11. Prior to submission of the reserved matters/full planning application the developer must undertake an agreed programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority. 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 within 6 months of the date of completion of the scheme hereby approved by this permission. The strategy shall include details of the following:

i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area in accordance with a brief issued by the County Durham Archaeology Section; the evaluation is to be undertaken following the approval of planning permission;

ii) an assessment of the impact of the proposed development on any archaeological remains identified in the trial trench evaluation phase;

iii) proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;

iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and

v) notification in writing to the Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

*Reason: to comply with Para 128 of the NPPF as the site has an archaeological interest.*

12. Notwithstanding the details submitted, this permission relates to a maximum of 44 dwellings on the site.

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

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

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

---

## **BACKGROUND PAPERS**

---

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

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

District of Easington Local Plan

The County Durham Plan (Submission Draft)

The County Durham Strategic Housing Land Assessment

The County Durham Strategic Housing Market Assessment

Statutory, internal and public consultation responses

