



Area Planning Committee (Central and East)

Date Tuesday 12 July 2016
Time 1.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 14 June 2016 (Pages 1 - 10)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/16/01356/FPA - Aldi Stores Ltd, Site Of Peterlee Building Supplies, Yoden Way, Peterlee, SR8 4RD (Pages 11 - 34)
Proposed retail store and associated works.
 - b) DM/16/00129/FPA - East Durham and Houghall Community College, Houghall, Durham, DH1 3SG (Pages 35 - 66)
Refurbishment of Weardale House to provide 24 student beds, demolition of 2 existing accommodation blocks and erection of purpose built student accommodation block (198 beds).
 - c) DM/15/00793/OUT - Land to the East of Prospect Place, Commercial Road East, Coxhoe (Pages 67 - 96)
Construction of 55 residential dwellings with associated infrastructure, landscaping and engineering works (outline, all matters reserved except access).
 - d) DM/16/01506/FPA - B&Q Warehouse, Unit 1, McIntyre Way, Durham City Retail Park, Gilesgate Moor, Durham (Pages 97 - 106)
Erection of a 1,114 sq.m mezzanine floor.
 - e) DM/15/03735/VOC - Land at Kepier House, The Sands, Durham (Pages 107 - 120)
Variation of conditions 2 and 12 relating to car parking and flood risk and removal of conditions 3, 5, 8, 9, 10 and 11 of application ref: DM/14/01821/FPA (35 apartments).

- f) DM/ 15/0352/FPA - Dene Hall Care Home, Horden Dene, Easington Colliery (Pages 121 - 134)
Demolition of care home and erection of 19 dwellings.
- g) DM/16/01202/FPA - McDonalds Restaurants, Unit L, Arnison Retail Centre, Pity Me, Durham, DH1 5GB (Pages 135 - 144)
Refurbishment and reconfiguration of the restaurant drive thru lane and patio area to include extensions totalling 24.8sqm, incorporating associated works to the site. Alterations to elevations which include the installation of an additional booth to accommodate the new fast forward lane. Existing booths to be replaced with new. Relocated fascia signage.
- h) DM/16/01389/FPA - 4 St. Leonards, North Road, Durham, DH1 4NH (Pages 145 - 154)
Demolition of existing semi-detached dwelling and erection of 2 new dwellings.
- i) DM/16/01494/FPA - 16 Whinney Hill, Durham. DH1 3BE (Pages 155 - 162)
Two storey rear extension for a house in multiple occupation.
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
4 July 2016

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 14 June 2016** at **1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors G Bleasdale, J Clark, P Conway, M Davinson, D Freeman, C Kay, A Laing (Vice-Chairman), J Lethbridge, B Moir, K Shaw and A Turner (substitute for S Iveson)

Also Present:

Councillor M Nicholls

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell and J Robinson.

2 Substitute Members

Councillor A Turner substituted for Councillor S Iveson.

3 Minutes

The Minutes of the meeting held 10 May 2016 were agreed as a correct record and were 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/15/03779/FPA - Land adjoining Snook Acres, Front Street, Witton Gilbert, DH7 6SY

The Senior Planning Officer, Chris Baxter gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Officer advised that Members of the Committee had visited the site that day and were familiar with the location and setting. The application was for the erection of 14 residential properties, associated highways and landscaping works and was recommended for approval subject to conditions.

Members noted that within Condition 2 that the following Plan Reference Numbers would be required to reflect amended plans, updating the recommendation should Members wish to approve the application: PL06J; PL07H; PL08B and PL16A.

The Committee noted that there had been no objections from the statutory consultees on the application, however internally the Landscape Team had raised some concerns in terms of significant adverse landscape and visual effects and Ecology Team had made Officers aware that the development impacted upon the Sacriston Subglacial Channels Local Geological Site. The Committee noted 7 letters of objection from the members of the public and objections from the Parish Council, as set out within the report, with Witton Gilbert Parish Council objection to the design and house types, not the principle of development at the site.

The Senior Planning Officer noted that the design was considered acceptable in terms of the tree cover that would be retained and in terms of parking provision and access to the site. It was added that approval would also be subject to the completion of a s106 agreement in terms of securing £5,000 towards public art in the locality and the provision of open space within the site.

The Chairman noted there were no registered Speakers and asked Members of the Committee for their questions and comments on the application

Councillor M Davinson noted that if he was a local resident he would have concerns in terms of where construction materials would be stored and how construction traffic would be organised and therefore suggested a construction management plan be included, as well as setting out the hours during which works could take place, to protect local residents' amenity. The Senior Planning Officer noted that a construction management plan had not been suggested, however, if this was something Members felt was required, it could be included. It was added that as the site was quite large it as felt it would be able to accommodate the materials and equipment required for the development within the site boundary.

Councillor J Lethbridge noted he was pleased with the decision made to reduce the number of houses from 19 to 14 in this amended scheme and recalled from the visit that the site sat in a natural hollow and asked whether this presented any risk in terms of flooding, and had this been assessed. The Senior Planning Officer noted that the proposals were to make the site level, elevating the lower side of the site, and that the Environment Agency had raised no objections and Northumbrian Water and the Council's Drainage Officer had also raised no objections, subject to the relevant conditions as set out within the report.

Councillor P Conway noted he agreed with Councillor M Davinson in respect of a construction management plan and the usual hours of operation and asked for thoughts from Officers in terms of the comments from the Parish Council and Council's Conservation and Design Team on the design and houses types as set out in the application. The Senior Planning Officer noted that the Parish Council had felt the proposals did not fit in with the village of Witton Gilbert, however, Planners felt that the design was acceptable and, while a more modern estate, the design issues were not sufficient to be able to warrant a refusal recommendation.

The Chairman asked if Members were willing to vote, noting the amended plan numbers and construction management plan and hours of operation as proposed and seconded by Councillors M Davinson and P Conway.

RESOLVED

That the application be **APPROVED** subject to the Section 106 Agreement and conditions detailed in the Officer's report to the Committee, amended plan numbers as mentioned by the Senior Planning Officer and an additional condition in terms of a construction management plan and hours of operation.

b DM/16/00858/FPA - 3-6 Front Street, Wheatley Hill, Durham, DH6 3NJ

The Principal Planning Officer, Alan Dobie gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for 12 no. residential apartments and was recommended for approval, subject to conditions. Members noted that a previous planning permission for the site had lapsed.

It was explained that the area had a mix of commercial and residential properties, some semi-detached and that access to the proposed development would be via the rear lane, accessing the 16 parking bays located at the rear of the site, deemed satisfactory by the Highway Section. It was noted the design was for a building higher than existing neighbouring buildings, however, it was not as high as previous schemes and some other design improvements had been negotiated.

The Committee noted that there had been no objections from the internal and statutory consultees in relation to the application.

The Committee noted the Local Member had raised concerns on behalf of residents, and a local resident had raised queries in terms of drainage and waste collection. It was explained that drainage was an issue that was conditioned for, as set out in the report, and that the issue of waste was between the Developer and potential residents to deal with, speaking to the Waste Management Authority and the application being acceptable in planning terms.

The Principal Planning Officer added that the site was a brownfield site and such development was encouraged by both local policies and the National Planning Policy Framework (NPPF), and that the village of Wheatley Hill was considered a sustainable community and there were good links to local services and public transport. It was added that approval would be subject to a s106 agreement in terms of securing £6,000 for off-site play/recreation provision.

The Chairman asked the Local Member for Trimdon and Thornley, Councillor M Nichols to speak in relation to the Application.

Councillor M Nichols thanked the Committee for the opportunity to speak and noted that he was opposed to the creation of flats at the site, previously a dance hall years previously, and that local people had fought for many years for the site to be developed and improved. It was explained that a "for sale" sign had gone onto the land without speaking to people locally and it was added that as Chairman of the Parish Council he was opposed to the application. Councillor M Nicholls added that previous developments of flats in the village had not worked and resulted in the removal of those properties after problems. Members were informed of work ongoing in terms of securing grants to improve the shop-fronts within the village and existing issues of "rogue landlords" and empty properties. It was put to Members of the Committee that there was no demand for such flats and that the actual demand was for 2-bed bungalows, especially in the context of a new medical centre just across the way from the application site. Councillor M Nichols concluded by noting he felt that flats were not appropriate for the village and that if the applicant had spoken to residents, he would have been informed that a different approach would have been more appropriate.

The Principal Planning Officer noted the local issues at the front street as described by Councillor M Nichols, however, reiterated that in planning terms the application was acceptable, with the previous lapsed permission having also been for apartments, with it not being for Officers to dictate the dwelling types. The Principal Planning Officer added that the NPPF encouraged "high quality housing" as well as a mix of housing types and this application for "in-fill" development could also help generate additional income locally. He reminded Members to consider the application in front of them rather than alternative schemes and advised that it would be difficult to sustain a refusal reason on the basis of the scheme being flats rather than houses.

The Chairman noted the comments of the Local Members and Principal Planning Officer and asked Members of the Committee for their questions and comments on the application.

Councillor M Davinson reiterated comments he had made on the previous application in terms of a construction management plan and hours of operation to minimise the impact on neighbouring residents, asked as regards Condition 12 that referred to trees at the site, though the photomontage showed no trees at the site, and highlighted a typographical error in respect of Condition 13: "... 5 years from the competition die", which Councillor M Davinson suggested should have read "5 years from the completion date". The Principal Planning Officer explained Councillor M Davinson was correct in terms of Condition 13, and noted that condition 12 was a standard condition in relation to trees, however, agreed that it could be removed should Members wish to do so. The Principal Planning Officer added that a construction management plan could be included should Members wish to do so.

Councillor A Laing asked whether there would be lighting, down the alleyways running down the sides of the property, as there was concern if the area becoming a "rat-run" and there was a community centre nearby. Councillor J Lethbridge noted that in the past a scheme that had contained a number of flats in the Bishop Auckland area had proven how difficult it can be to encourage take up of these types of property and noted issues with anti-social behaviour and asked whether there was the demand for this type of property in this particular area. Councillor B Moir noted that Councillor M Nichols had spoken well as regards his local community and that NPPF Part 8 referred to Healthier Communities and that there were issues of quantitative versus qualitative information in terms of demand. Councillor B Moir noted that the Local Member had explained the applicant had not engaged with the local community and asked how the development fitted in with the local community and economy. Councillor B Moir added it maybe that the application was speculative, in order to improve the sale price of the land in question, however, he felt that the question that needed to be answered was that of how the application would satisfy NPPF Part 8 and asked whether it would be possible to defer the application.

The Principal Planning Officer noted that there was no lighting mentioned within the application for the access alongside the proposed property, however, these could be mentioned to the applicant or conditioned. It was added that in terms of the NPPF, the NPPF encouraged a mix of property types and also the Planning Authority could not require a developer to engage with a community. Members noted that as the applicant had invested time and resources in bringing forward the proposals then they must feel there was a market for such properties and the development stood up in planning terms, hence the recommendation for approval.

Councillor P Conway added that he agreed with the comments of Councillor B Moir and J Lethbridge and that while respecting the information given by Planning Officers he felt similar to Councillor B Moir in terms of NPPF Part 8 and that empowering local people was an important core principle of the NPPF. Councillor P Conway added that looking at the planning history for the site there had been 5 applications for the site, yet no developments had been taken forward and asked whether this was down to speculative applications and whether engagement with the local community would not have helped to take the site forward. Councillor P Conway asked whether there were reasonable grounds to defer the application until some form of engagement had taken place.

The Solicitor – Planning, Neil Carter noted that the applicant could be asked to engage with the local community, however, could not be required to do so and accordingly, the question would be for Members to ask what merit there would be in deferment.

Councillor B Moir proposed that the application be deferred for the developer to be requested to undertake some quantitative engagement, in the ethos of the NPPF, with the local community in order to be able to satisfy NPPF Part 8. Councillor P Conway seconded the proposal.

RESOLVED

That the application be **DEFERRED**.

c DM/16/00892/FPA - Land to The East Of 74 High Street South, Langley Moor

The Senior Planning Officer, Chris Baxter gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the construction of two new residential care buildings and was recommended for approval subject to conditions.

The Committee noted that there had been no objections from statutory or internal consultees on the application, and no objections from members of the public to this proposed development on a brownfield site.

The Chairman noted there were no registered Speakers and asked Members of the Committee for their questions and comments on the application.

Councillor M Davinson asked why Condition 6 set out the need for a noise impact assessment and added that again, similar to comments on the previous applications, that a construction management plan and hours of operation may help in terms of minimising disruption to existing local residents. The Senior Planning Officer explained that the condition as regards noise impact was due to the nature of the development, residential care, and therefore to assess the potential impact upon those future residents of the facilities and that if Members felt a construction management plan and hours of operation were required this could be included within the conditions.

Councillor D Freeman noted there was a demand for such residential care in the Durham area and the proposals represented a positive development. Councillor J Lethbridge noted that looking at the plans and elevations the “block” as presented was “singularly unimaginative”.

Councillor M Davinson proposed that the application be approved, subject to a condition in terms of the construction management plan and hours of operation, and was seconded by Councillor G Bleasdale.

RESOLVED

That the application be **APPROVED** subject to the conditions detailed in the Officer's report to the Committee together with an additional condition in terms of a construction management plan and hours of operation.

The Chairman noted that the remaining four applications were all for similar variations of condition and were all within the same area and asked if the Committee would be willing to receive a joint presentation as regards the application, then to make individual decisions upon each application, Members agreed.

- d DM/16/01017/VOC - Wok Next, 97 Claypath, Durham, DH1 1RG**
- e DM/16/01268/VOC - Pizza Uno, 92 Claypath, Durham, DH1 1RG**
- f DM/16/01331/VOC - Urban Oven, 94 Claypath, Durham, DH1 1RG**
- g DM/16/01372/VOC - 86 Claypath, Durham, DH1 1RG**

The Planning Officer, S Hyde gave a detailed presentation on the reports relating to the abovementioned planning applications, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Officer advised that Members of the Committee had visited the site that day and were familiar with the location and setting. The applications were for:

(d) Wok Next, 97 Claypath – Variation of Condition 5 (hours of operation) of planning permission 4/11/00713/FPA from 9am – 11pm Monday – Sunday to 9am – 11pm Sunday – Thursday and 9am – 3 am Friday – Saturday.

(e) Pizza Uno, 92 Claypath – Variation of Condition 4 (hours of operation) of planning permission 4/09/00251/FPA to extend opening hours from 11pm to 3am seven days a week.

(f) Urban Oven, 97 Claypath – Opening hours to be extended from 11pm to 3am seven days a week.

(g) Falafel Al Hana, 86 Claypath – Variation of Condition 4 (hours of operation) of planning permission 4/09/00088/FPA to extend opening hours to 3am seven days a week (existing consent allows Friday and Saturday until 3am only with the remainder of the week until 11pm).

The Planning Officer noted the applications were recommended for refusal.

Members noted the applications were brought to Committee at the request of Councillor D Freeman one of the Local Members for the area.

The Committee noted that there had been issues in terms of enforcement of the existing conditions, with Police, together with colleagues within the Harm Reduction Unit (HRU), having noted the effect of late night opening of these fast food takeaways in terms of Police resources and adverse impact upon local residents.

In referring to a plan, the Planning Officer reminded Members that 97 Claypath was the property closest to the nearby nightclubs and that 86, 92 and 94 Claypath had residential properties above them, not linked to the businesses below. It was added that the former “Kwik Fit” property on the opposite side of Claypath had a planning approval for a 400 bed student accommodation and there were a number of other nearby properties with students, and elderly residents nearby.

The Planning Officer noted there had been strong objection from Durham Constabulary in terms of residential amenity and public safety. It was added that Environmental Health had noted that there was potential for a statutory nuisance in terms of noise. There had been no objections in terms of highways. It was explained that there had been 22 letters of objection from individuals and the City of Durham Trust and St. Nicholas Community Forum citing the impact on residential amenity.

The Planning Officer noted a letter of objection received from Roberta Blackman-Woods MP received after the report was circulated to Members, which reiterated the loss of residential amenity and also cited Paragraph 69 of the NPPF (Promoting Healthier Communities) which states that planning decisions should aim to promote “safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion”. The Planning Officer noted Officers would ask to add this to the refusal reasons, should Members decide to refuse any or all of the applications. It was added that these applications were for variations in opening hours and represented no physical works, and therefore there was no impact upon the Conservation Area.

The Chairman noted there were no registered Speakers and asked Members of the Committee for their questions and comments on the application.

Councillor D Freeman noted that three of the premises only had existing permission to remain open until 11.00pm, and therefore in breach of their existing consents. Councillor D Freeman accepted that if their situation was not regularised, with permissions given until 3.00am then this would affect their businesses. However, Councillor D Freeman noted that local residents, a potential additional 400 students and a nearby 43 bed elderly persons complex would all be affected, as set out in paragraph 34 of the report stating “the operation of late night refreshment houses into the early hours of the morning is in direct conflict with residential amenity”. Councillor D Freeman noted that Environmental Health and Consumer Protection, Durham Constabulary, local Residents’ Associations and individual residents all objected to the applications. Councillor D Freeman added that outside of these applications the removal of the taxi rank and other measures undertaken had been appreciated and welcomed. Councillor D Freeman added that therefore he supported the refusal of the applications based on the reasons set out in the report and the additional point as mentioned by the Planning Officer.

Councillor B Moir noted he had moved away from Durham some years ago and upon returning to the City had in some sense felt he had gone “back to the future” in terms of the impact of the night time economy on areas such as lower Claypath, with “fly-blown litter” and noise nuisance.

Councillor B Moir added that while these premises were businesses and refusing the applications could affect them, in a City with many students and with a 400 bed student accommodation granted for the property opposite he felt takeaway food businesses should be able to make money in this area without having to stay open until 3am. Councillor B Moir agreed with Councillor D Freeman and supported the Officer's recommendations for refusal.

Councillor J Lethbridge added that it was referred to within comments from the University that even students needed sleep, as did residents, and therefore he welcomed the Officer's reports and supported the recommendations for refusal.

Councillor M Davinson noted that one of the premises, 86 Claypath, already had permission to operate until 3.00am on Fridays and Saturdays and asked would this particular establishment become a magnet for people coming out of nightclubs and were there any actions that could be taken by Durham Constabulary or the Council's Licensing Section. The Planning Officer reiterated that this premises did have permission until 3.00am and the situation would be monitored by Police and Licensing colleagues, however, having fewer premises open at the later times may reduce the impact on residents. Councillor P Conway added that he too supported the Officer's recommendations within the reports.

The Chairman asked for Members to consider each of the applications separately, as set out within their individual reports, taking into account the additional information presented by the Planning Officer in her presentation.

(d) DM/16/01017/VOC - Wok Next, 97 Claypath, Durham, DH1 1RG

RESOLVED

That the application be **REFUSED** for the reasons detailed in the Officer's report to the Committee, and an additional reason of being contrary to Paragraph 69 of the NPPF.

(e) DM/16/01268/VOC - Pizza Uno, 92 Claypath, Durham, DH1 1RG

RESOLVED

That the application be **REFUSED** for the reasons detailed in the Officer's report to the Committee, and an additional reason of being contrary to Paragraph 69 of the NPPF.

(f) DM/16/01331/VOC - Urban Oven, 94 Claypath, Durham, DH1 1RG

RESOLVED

That the application be **REFUSED** for the reasons detailed in the Officer's report to the Committee, and an additional reason of being contrary to Paragraph 69 of the NPPF.

(g) Falafel Al Hana, 86 Claypath, Durham, DH1 1RG

RESOLVED

That the application be **REFUSED** for the reasons detailed in the Officer's report to the Committee, and an additional reason of being contrary to Paragraph 69 of the NPPF.

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01356/FPA
FULL APPLICATION DESCRIPTION:	Proposed retail store and associated works.
NAME OF APPLICANT:	Aldi Stores Ltd
ADDRESS:	Site Of Peterlee Building Supplies Yoden Way Peterlee SR8 4RD
ELECTORAL DIVISION:	Peterlee East/ Hordon
CASE OFFICER:	Steven Pilkington. Senior Planning officer, 03000 263964 steven.pilkington@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site

1. The application site measures 0.85ha in area and is located around 1km east of Peterlee town centre. The part brownfield site consists of a concrete hardstanding, formally occupied by Peterlee Building Supplies and an area of undeveloped land with a mixture of scrub and mature vegetation. Site access is currently provided by two access points off Yoden Way, while there is ready public access across the site. Parts of the site have experienced anti-social behaviour with the dumping of waste materials, littering and un-authorized access to residential properties directly to the north of the site. There is a level change across the site where the most northern point is approximately 2m lower than the most southern point; the site also falls away by approximately 2.3m from the Yoden Way in the most southern corner.
2. The site is bounded to the south east by the adopted highway B1320 Yoden. To the north west residential dwellings situated on Edendale Terrace are present along with commercial properties and Hordon Spiritualist Church to the north. To the west the residential terrace of Edenvale Estate is located separated by a mature landscaped area which also extends to the south west.
3. No statutory or locally designated landscape or ecological sites are located within or immediately adjacent to the application site. However, Castle Eden Nature Reserve lies approximately 53m to the south of the site. No recorded public rights of way are contained within the application site, however Footpath No. 1 (Horden) is located directly adjacent to the northern boundary of the site. There are no heritage asset that would be directly affected by the proposal.

4. Planning permission is sought for the erection of retail store that would provide 1,741sqm of floor space. The building would measure a maximum of 68m in length by 34m in width and the flat roof would have a maximum height of 7.8m. The building would be rendered white with a glazed entrance feature on the corner of the eastern and northern elevation. High level windows would be located on the east elevation, along with a projecting canopy feature which would also wrap around to the northern elevation.
5. The proposed development would create a new access to the north of the existing vehicular access, which would allow two way vehicular flow and accessibility for HGV's and to serve 103 car parking spaces. A vehicle loading and servicing area would be provided to the south west. Landscape planting is proposed around the perimeter of the site along with a security fence to the existing woodland and amenity area. In order to accommodate the level change on the site and provide a serviceable car park, the most north eastern park of the car park would be elevated at a maximum of 1.9m on relation to surrounding land.
6. This application is being reported to the Central and East Planning Committee as it is classed as a major development due to the floor area proposed and is under 10,000sqm and less than 2ha.

PLANNING HISTORY

7. In 2015 planning permission was granted for a 56 bed care home on the previously developed part of the site, this planning permission has yet to be implemented (DM/14/03833/FPA).

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. 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. 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;

10. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
11. *Part 2 - Ensuring the Vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
12. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
13. *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. *Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *Part 10 – Climate Change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
16. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

LOCAL PLAN POLICY:

District of Easington Local Plan

17. *Policy 1 – General Principles of Development* - Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
18. *Policy 14 – Special Area of Conservation* – Sets out that developments which are likely to adversely affect a designated special area of conservation will only be approved where there is no alternative solution, there are imperative reasons of over-riding national interest, it is necessary for public safety or the beneficial consequences of nature conservation importance arise.
19. *Policy 18 – Species and Habitat Protection* - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat
20. *Policy 35 – Design and Layout of Development* - 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 – Design for Access and the Means of Travel* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
22. *Policy 37 – Design for Parking* - The design and layout of parking should seek to minimise the level of parking provision.
23. *Policy 38 – Designing out Crime* - The design and layout of development will be required to have due regard to personal safety and the security of property, particularly in the hours of darkness
24. *Policy 101 – Main Town Centres* – Sets out that Peterlee and Seaham are the main retailing Centres in the district and will be protected and promoted.
25. *Policy 102 – Local Shopping Centres* – Sets out that outside of the defined centres of Peterlee and Seaham new retail development will be approved within or on the edge of local or neighbourhood Shopping Centres subject to assessing the developments impact.
26. *Policy 104 – Town Centres* – Sets out that where there is an identified need for new major retail development proposals these should be located within the defined town centres of Seaham and Peterlee. If it can be demonstrated that suitable sites are unlikely to be made available within a reasonable period, then proposals may be located on the edges of those centres, followed by locations at local shopping centres within those towns and finally by sites elsewhere within those built up areas. This is provided that the proposal would not cumulatively undermine the vitality and viability of the main town, the proposal makes provision for access, the proposal is likely to facilitate multipurpose trips and would not have serious impact on the amenity of surrounding land users.

27. *Policy HO11 – Horden Shopping* – Sets out that the local shopping centre for Horden will consist of: i) both sides of Blackhills Road and the east side of Fifth Street, between Thorpe Street and Dene Street, and ii) the north side of Cotsford Lane East of the Co- operative building, and both sides of the Coast Road between Hawthorn Crescent and Sunderland Road.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3269/Easington-Local-Plan>

RELEVANT EMERGING POLICY:

28. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

29. *Highways Authority* – Offers no objection advising that the submitted Transport Assessment is considered sound while agreeing with the conclusion that the majority of trips to the store would not be new to the network but will be existing shopping trips pass by, diverted or transferred. The proposal to introduce a protected right turn into the site supported with ‘Keep Clear’ road markings is welcomed. A facility for pedestrians to cross Yoden Way close to the public transport infrastructure to the front of the development is considered necessary in the form of a pedestrian refuge crossing point. Subject to the implementation of this crossing the Highways Authority advises that the development can be served by an appropriate means of access and the development would have an acceptable impact on the wider highway network. Conditions in relation to the implementation of the travel plan, bike parking and electric vehicle (EV) charging points are recommended.
30. *Drainage and Coastal Protection* – Offer no objection to the proposed methods of surface water attenuation set out in the Flood Risk Assessment.

INTERNAL CONSULTEE RESPONSES:

31. *Spatial Policy* – Offer no objections advising that the requirements of the sequential assessment have been met by the applicant. The site is an edge of centre site and whilst other in centre and edge of centre sites exist there are logical reasons as to why they can be discounted. Whilst not strictly required, the applicants have also provided an impact assessment of the proposed store. This concludes that the proposal would not have a significant adverse impact on the vitality and viability of nearby centres and also on any investment. The conclusions of this assessment are again accepted. It is also worth noting the significant regeneration benefits that this proposal can bring in terms of investment and job creation.

32. *Ecology* – Raise no objections, subject to securing an appropriate mechanism to deliver the proposed off site habitat enhancement, to mitigate the biodiversity loss of Durham Biodiversity Action Plan (DBAP) species.
33. *Environment, Health & Consumer Protection (Air Quality)* – Raise no objections, advising that the application has considered potential air quality impacts, which are found to be satisfactory and no further consideration is required on this matter. It is however, recommended that a condition requiring the implementation of a travel plan is attached to any approval.
34. *Environment, Health & Consumer Protection (Land Contamination)* – Advise that the submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations.
35. *Environment, Health & Consumer Protection (Noise Action Team)* – Raise no objections advising the submitted noise impact assessment is considered sound. While noise generated from the movement of cars would be within acceptable levels there would inherently be some disturbance due to the proposed late opening times. Concerns are raised regarding the proposed 24 hour delivery model given the low back ground noise levels of the site which may lead to sleep disturbance. A condition limiting the delivery hours is recommended. In relation to light pollution a lighting assessment has been produced, however further clarification is sought in relation to the calculation of light spill, it is recommended to address this matter by condition. Further conditions in relation to the specification of plant to be installed, the implementation of a proposed acoustic fence and to control construction related impact are recommended.
36. *Landscape* – Advise that the existing landscape features should be incorporated into the site layout, including the hedgerow onto Yoden Way. It is also advised that a greater separation distance should be provided between the proposed parking and the adjacent highway. Overall it is advised that the proposal would have some adverse landscape and visual effects that would need to be weighed up against relevant planning policies.
37. *Landscape (Arboriculture)* – Offer no objections, advising that a number of mature trees will need to be removed to facilitate the development. While these trees do offer some aesthetic benefit, they are supplemented by other trees behind them which would remain unaffected by the development and as such, their removal will not be significantly detrimental to the area. However protection measures should be put in place.
38. *Design and Conservation*– Raise no objections, given the lack of sensitivity in relation to heritage issues.
39. *Travel Planning*– Offer comments on the submitted travel plan, advising these should be addressed through a conditional approach.
40. *Access and Rights of Way* – Advise that there are no recorded rights of way across or adjoining the application site, however there is an unregistered path crossing the site. The provision of a pedestrian link from the east of the site is welcomed.
41. *Climate Change and Sustainability* – Offer no objection support the measures to reduce emissions demonstrated by the applicant.

NO STATUTORY EXTERNAL CONSULTEE RESPONSES:

42. *Northumbrian Water* – Request a conditional approach to deal with waste and surface water, restricting run off to appropriate discharge rates.

PUBLIC RESPONSES:

43. The application has been advertised by means of individual notification letters, site notice and press notice. 3 letters of objection have been submitted and 113 letters of support (the majority of which were completed at a recent pre application consultation event) as summarised below.

Objection

- Impact on existing retail businesses within local centres.
- Loss of green space and vegetation extending away from the footprint of the existing building.
- Proximity to existing residential properties.
- Loss of amenity generated by loss of privacy, noise and light pollution.
- Impact of the development on existing health conditions.
- Loss of security of existing residential properties.
- Impact on ecological interests of the site.
- Traffic impact and resultant impact on highway safety.
- The Council should not sell off its land.
- Impact on price of properties.
- There are more appropriate locations for the store.

Support

- The regeneration and economic benefits of the developments are highlighted.
- Benefits of providing competition and range of goods,
- Proximity to existing residential areas and accessibility.
- Job opportunities in construction and operation phases.

APPLICANTS STATEMENT:

44. The proposed store will create up to 30 new jobs for local residents as well as additional employment during the construction phase. The development brings new investment into the area with the redevelopment of a brownfield site which will enhance the overall image of the area. The assessment included with the application has considered the impacts of the proposed development on both the Local Centre of Horden, and Peterlee Town Centre. It is concluded that the development will not result in any significant detrimental impact and, regeneration of the site will in fact bring additional shoppers to the Horden Local Centre.
45. The proposed food store is accessible by a choice of means of transport other than the car and has good accessibility for pedestrians and cyclists. The Transport Assessment demonstrates the development is acceptable in highways terms and no road safety problems have been identified. In response to comments received, the access to the store from Yoden Way has been further improved with the provision of a central island in the road to aid people crossing the road.
46. The design and layout of the proposed development has been carefully considered to ensure it sits comfortably within the surrounding residential context and landscaped area. The applicant has responded to comments received during the application determination to reduce any potential impacts on neighbouring properties, including removal and reorientation of car parking spaces, provision of additional landscaping and fencing to protect amenity.

47. There is strong local support for a new Aldi Neighbourhood Foodstore which has been demonstrated through the public consultation exercise with 95% of respondents either supporting the proposals outright or with some minor comments.
48. In conclusion, the proposed development is a sustainable development, located within the local community close to nearby residential areas, with overwhelming support for the scheme. The construction and operation of the food store will be undertaken in a sustainable manner and deliver jobs and investment in the local community. In line with Aldi's standard store development, the store will create 100% of its heating requirements through reuse of energy otherwise lost from refrigeration. The company also adopts LED lighting throughout the store as standard and provides photovoltaic panels on the roof to minimise electricity requirements.
49. Overall, it has been clearly demonstrated that the proposed new Aldi store is sustainable development and therefore should be granted planning permission, being in accordance with the local policies of the development plan and the NPPF.

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 <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=O68O1OGDH6S00>

PLANNING CONSIDERATIONS AND ASSESSMENT

50. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, layout and design, residential amenity, highway safety, ecology, flooding and drainage and other issues.

Principle of Development

51. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Easington District Local Plan (EDLP) remains a statutory component of the development plan and the starting point for determining applications as set out at paragraph 12 of the NPPF. However, the NPPF advises at paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.

52. EDLP Policy 101 identifies the role of Peterlee and Seaham town centres as the main retailing centres within the former district of Easington, where the majority of major and retail developments should be located. Outside of these defined centres EDLP Policy 102 sets out that new retail development will be approved within or on the edge of local shopping centres, this is provided that, it is compatible with the scale and character of the centre. EDLP Policy 104 seeks to protect local centres by ensuring retail development is located within established centres as a first matter of course and when no appropriate sites are available out of centre locations can be considered, providing the development would not impact on the vitality or viability of the town or local centre. These Policies are considered broadly consistent with the NPPF which also seeks to protect the role and function of established town centres under Part 2. It is however recognised that the NPPF sets a threshold for the requirement of an impact test, rather than the default position described in Policy 104. It is however considered that substantial weight can be afforded to these Policies in the decision making process. Concerns have been raised by local business in relation to the impact on existing centres and retail units advising that there are more appropriate locations for the store.
53. The application site is located 1km away from Peterlee Town Centre and although there are two Local Centres within Horden, as defined by Policy HO11, the application site is outside of these areas, with the nearest 60m to the north. Paragraph 24 of the NPPF requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. In line with EDLP Policy 104 and as refined by the more up to date guidance in the NPPF of the NPPF a sequential test is required to be undertaken. The applicant has complied with this requirement and the submitted assessment concludes that there are no suitable, viable or available sites within sequentially preferable locations that could accommodate the proposed store. In reviewing the sequential assessment the Council's Spatial Policy Section advise that the scope, methodology and conclusions of this assessment are sound, and there are no other reasonable suitable sites that could reasonably accommodate the proposal. Other considered sites included Castle Dene Shopping Centre, Former East Durham and Houghall Community College, Burnhope Way, Land north of North Blunts Primary School and Former Easington Colliery Junior and Infant School.
54. The NPPF advises that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500sqm). Although not required under the NPPF given the application is for 1,741sqm an impact assessment has been submitted which considers the impact on the development on existing centres. The assessment identifies that the retail units that would experience the greatest impact are like for like food stores such as the Aldi and Lidl stores in Peterlee, Asda in Peterlee, and Tesco at Dragonville. However, in each case the assessment concludes that the impact would not be significantly adverse. In reviewing this assessment the Council's Spatial Policy officers again advise that the scope, methodology and conclusions of this assessment are sound. It is also highlighted that through the Council's own Retail and Town Centre Study the existing Peterlee Asda store was found to significantly over trade and the impact of the proposed Aldi would not undermine the viability of this store. The assessment also considers impacts on the neighbouring local centre in Horden and the wider benefits for that town. Again the conclusions that the Aldi store would be complementary to the existing retailers in Horden are considered sound.

55. There is currently an Aldi store operating within Peterlee town centre and the applicant advises that this store would run in addition to the proposed, serving a different catchment. It is also advised that the existing Aldi store is currently operated on a long lease and is unlikely to close as a result of this proposed development. Despite there not being a requirement to undertake an impact assessment, overall, the requirements of the sequential and impact assessment have been met as required by EDLP Policies and Part 2 of the NPPF.
56. The NPPF sets out that there are three dimensions to sustainable development, the economic, social and environmental roles and these roles should not be taken in isolation because they are mutually dependant. In relation to the economic and social roles it is recognised that there are regeneration benefits associated with the proposal. This includes the physical regeneration benefits of development of a vacant site, and also the new provision of food retail facilities in an area where there are currently very limited facilities of this type. It is recognised that Horden has some of the lowest levels of car ownership within the County (40.3% of households without a car). Further to this the job creation benefits should be afforded weight in an area of the County that suffers from high levels of unemployment. The applicant states that the equivalent of 30 full time employment positions would be created once the store is operational. The development would therefore contribute to the economic and social dimensions of sustainable development. However full consideration needs to be given to the potential environmental effects of the development and these are assessed below.

Layout and design

57. EDLP Policy 1 sets out that development should achieve a high standard of landscaping which relates well to the natural and built environments, while Policy 35 requires development to reflect the scale and character of the surrounding area. Further to this DELP Policy 104 states that retail developments should not have a serious adverse visual intrusion into the surrounding area. These Policies are considered compliant with the NPPF which also requires that development contributes to and enhance the natural and local environment under Part 11, while Part 7 states that good design is a key aspect of sustainable development and is indivisible from good planning. Significant weight can therefore be afforded to relevant EDLP policies in this respect.
58. In considering the impact of the development in this policy context it is noted that in order to facilitate the proposed store a significant amount of vegetation would need to be removed. This includes a mature hedgerow lining Yoden Way, mature trees bordering the site and scrub vegetation. This vegetation helps gives the site a green feel and is an important part of the character of Yoden Way and the approach into Peterlee. It is however recognised that parts of the site are visually in poor condition with the existing hard standing areas, access gates and the dumping of rubbish which negatively impacts on the surrounding area, particularly in winter months when there is less leaf cover. Concerns have been raised regarding the potential visual impact of the development.
59. Whilst noting the potential redevelopment benefits of the site, the Council's Landscape officers raise concerns regarding the visual impact of the development, particularly in relation to the vegetation loss and the relatively limited low level planting proposed and the resultant prominence of the building. However, this is considered to be a balancing exercise between securing an appropriate frontage and presence for the store, while allowing the filtering of views. An amended plan has been submitted in an attempt to address these concerns. This revises the site layout by increasing the landscape buffers to Yoden Way and introducing additional tree planting along Yoden Way. A reworked 3D model has also been submitted to reflect site levels. Nonetheless, concerns are still raised by the Landscape Section on the level of landscaping proposed and the resultant impact.

60. An Arboricultural Impact Assessment has been submitted highlighting that some mature trees along through western boundary of the site would be lost to accommodate the development. The Council's Arboricultural officers advise that while these trees offer some aesthetic benefit, they are supplemented by other trees behind them which would remain unaffected by the development and as such, their removal would not be significantly detrimental to the area. However, protection measures should be put in place during construction.
61. In relation to the design of the building, the proposal represents a standard Aldi store design, comprising a large rectangular building rendered white, with the mass broken up with glazing and a heavy canopy on the eastern and northern elevations. Although the building would not be reflective of any existing developments in this area, which are typically dominated by two storey terraced properties, it would not be incongruous in its context and is considered to represent good design. No objections are raised by the Council's Design and Conservation officers.
62. Overall, the re-development of the site would address its untidy condition and anti-social behaviour, and while recognising that there would be some negative effects associated with the loss of vegetation and change in character of the site, this is not considered sufficient to warrant refusal of the planning application on its own. In general it is considered that the development would comply with EDLP Policies 1, 35 and 104 of the EDLP and Parts 7 and 11 of the NPPF.

Residential Amenity

63. EDLP Policies 1 and 35 requires the design and layout of development to have no serious adverse effect on the amenity of those living or working in the vicinity of the development site. This is replicated in EDLP Policy 104 which sets out that new retail development should have no serious effect on the amenity of people nearby in terms of privacy, noise, pollution and car parking. Policy 37 of the EDLP requires that design and layout of development are be required to have regard to personal safety and the security of property. These Policies are considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Part 11 of the NPPF seeks to avoid noise from giving rise to significant new impacts. Objections have been raised in relation to the potential impact of the development on the residential amenity of neighbouring properties.
64. In this respect the proposed retail store would be located a minimum of approximately 39m from the main elevations of the residential properties of Edenvale Estate to the west. This distance is considered sufficient to prevent any significant overbearing impact arising, while views are also filtered by retained vegetation. To the west the store would be located a minimum of approximately 32m from the residential properties of Edenvale Terrace. Again while views of the proposed store would be achievable, the separation distance and the combination of existing vegetation in the form of a mature hedge would prevent a significant loss of amenity in terms of overbearing impact from arising from the store, this existing arrangement is proposed to be secured by a planning condition.

65. The proposed car park as originally submitted would be located a minimum distance of approximately 10m from the rear elevation of no. 11 Edendale Terrace. Due to the site levels, this element of the car park at its most extreme point would be 1.9m higher than the level of this property. Objections have been raised by the occupiers of this property, in relation to the impact of the development, and in particular the car park. Following this, the applicant has revised the site layout and has offset the parking slightly from the rear elevation to give an effective separation distance of approximately 14.5m. It is also proposed to induce a mixture of shrub and new trees to help screen the development and introduce a 2m high wire mesh fence to address security concerns raised by the resident. A 1.2m high solid timber fence would be erected to prevent car headlights shining back towards the property.
66. In considering this element of the scheme, it is recognised that the development, due to the proximity of the car parking would lead to a loss of amenity over the current situation for this resident. However, following the amendments made to the scheme, it is considered that this reduction in amenity would not, in the context of EDLP Policies 1 and 35, be so serious so as to warrant refusal of the planning application while noting concerns on existing health conditions. It is considered that weight should also be given the existing site circumstances where members of the public have ready access to rear of the boundary of no.11 Edendale Terrace where there is evidence of antisocial behaviour. Further to this the separation distance of the car park is in excess of the minimum of the 13.5m rear to gable separation distance advocated in the EDLP. While it is recognised that the car park would span across the rear elevation it is considerably lower than a two storey dwelling.
67. A noise impact assessment has been submitted that assesses the impact of the development on neighbouring residents. This has been reviewed by the Council's Environmental Health and Consumer Protection officers and it is advised that the conclusions and methodologies are sound. Whilst it is advised that the noise generated from the movement of cars would be within acceptable levels there would inherently be some disturbance, particularly due to the proposed late opening times (22:00 Monday – Saturday).
68. The submitted noise assessment concludes there would be an acceptable impact from the proposed 24 hour delivery model with the erection of acoustic fencing around the delivery area. However, concerns are raised by Environmental Health and Consumer Protection officers due to the low background noise levels of the site and the likely noise generated with deliveries, such as reversing lorries, doors slamming and unloading, which may lead to sleep disturbance. Officers therefore recommended that a condition limiting the delivery hours is imposed should planning permission be granted. However the applicant has advised that the ability to accept 24 hour delivery's is critical to their business model, where a number of stores would be served by the same vehicle providing similar goods; this allows costs to be controlled. The applicant has provided a night-time management plan setting out mitigation methods to reduce noise, including controlling working practices. On balance, it is considered that applied properly this would mitigate the impact of noise generated from the site to acceptable levels and this arrangement is proposed to be secured by a planning condition.
69. The applicant has submitted a lighting scheme indicating that there would minimal light spillage from the site. However, the site layout has changed since it was submitted and Environmental Health and Consumer Protection officers seek clarification on how the light spillage is calculated. It is therefore recommended that a condition is attached to any approval requiring the submission of a new light management scheme, to agree the finer details. However, it is considered that an acceptable lighting scheme can be achieved on site.

70. While recognising that the Environment, Health and Consumer Protection officers have additional controls outside of planning that deal with noise nuisance and other construction related disturbances, given the proximity of neighbouring residential properties some form of control is necessary. The issues raised by Environment, Health and Consumer Protection officers could however all be dealt with under a single condition requiring a Construction Management Plan detailing measures to minimise the impact of construction activities on the neighbouring properties.
71. Public objections reference a loss of property value, however weight should not be attached to this matter as it is not a material planning consideration.
72. Overall, whilst it is recognised that there would be some reduction in the level of amenity experienced by surrounding residential properties in relation to the proximity of the development and its operation, this is not considered to be at a level sufficient to warrant refusal of the planning application on its own. No objections are raised by Environment, Health and Consumer Protection officers subject to appropriate conditions. The development is therefore considered to comply with EDLP Policies 1, 35 and 104 and Parts 8 and 11 of the NPPF in this respect.

Access and highway safety issues

73. EDLP Policies 1, 36 and 37 require that development proposals achieve a satisfactory means of access onto the wider highway network, seek to protect highway safety in terms of vehicle movements and traffic generation and also requiring an appropriate level of car parking. These policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application. Concerns over highway safety, including the capacity of the road network to accommodate additional flows and the resultant impact on highway safety have been raised by local residents.
74. The proposed development would create a new access to the north of the existing vehicular access, which would allow two way vehicular flow and accessibility for HGV's. Parking would be laid out to the front of the store, providing 103 spaces, including 2 electric vehicle charging points, 6 disabled spaces and 9 parent and child spaces.
75. A Transport Assessment has been submitted that considers the impact of the development on the surrounding road network, including the adjacent junction of Yoden Way and Coast Road. The Highways Authority advise that the assessment is considered sound while agreeing with the conclusion that the majority of trips to the store would not be new to the network but will be existing shopping trips pass by, diverted or transferred. The proposal to introduce a protected right turn into the site supported with 'Keep Clear' road markings is welcomed by the Highways Authority. It is identified that in order that a facility for pedestrians to cross Yoden Way close to the public transport infrastructure to the front of the development is necessary in the form of a pedestrian refuge crossing point. This can be accommodated within the highway with a minor realignment, as demonstrated on revised plans received from the applicant. Subject to the implementation of this crossing the Highways Authority advise that the development can be served by an appropriate means of access and the development would have an acceptable impact on the wider highway network. It is also recommended that conditions are attached on any planning approval to secure the provision of electric vehicle charging points and cycle parking as annotated on the submitted site plan.

76. Access & Public Rights of Way officers advise that there is an unregistered path across the site linking Yoden Way with the properties of Eden Vale Estate to the West. This path is well used, although it does create antisocial behaviour problems. The proposed scheme replicates this east – west access across the site with a proposed footpath link from the western boundary to the corner of Eden Vale Estate. This link is considered necessary to achieve suitable connectivity into surrounding developments and to discourage car use to the site. A condition requiring the implementation of this footpath link and lighting is recommended to be attached to any planning approval. Footpath No. 1 (Horden) is located close to the northern boundary of the site, the development would have no impact on this, while it appears that this footpath is not unrestricted with other development blocking its route. Restriction.
77. Travel Planning officers have reviewed the submitted Framework Travel plan, which is largely considered to be sound, subject to minor amendments. It is considered that this matter can be dealt with by condition, along with securing the implementation of a travel plan coordinator to secure sustainable travel objective.
78. Environment, Health and Consumer Protection officers (Air Quality) have reviewed the submitted Air Quality Assessment and confirm that the conclusions or the report are sound. It is recommended that a condition requiring the implementation of the travel plan as mitigation is attached.
79. Overall, based on the advice of the Highways Authority the proposal would be served by an appropriate means of access and would have an appropriate impact on the wider highway network. The internal layout is considered acceptable, while sufficient car parking is provided across the scheme. Subject to the recommended conditions the proposal is considered acceptable in highways terms and complies with EDLP Local Plan Policies 1 and 36 and Parts 4 and 8 of the NPPF.

Ecology

80. Part 11 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests. In this respect an ecology survey has been submitted with the application, highlighting that no species that are afforded legal protection under the Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981 (as amended) or any other legislation have been recorded within the site. The report therefore concludes that the risk of protected species being on the site, with the exception for the potential for foraging bats and breeding birds, or the development being a risk to the protected species is low or negligible.
81. The submitted report and conclusions are considered sound by the Council's Ecology officers. Officers advise that Durham Biodiversity Action Plan (DBAP) species are present on site, including Broadleaf Woodland, Scrub and Hedgerow. It is advised that these habitats would be lost as a result from the development and the proposed landscaping is unlikely to offer any benefit for biodiversity and will not compensate for the loss of DBAP Priority Habitats. Objections have been raised regarding the potential ecological impact of the development.

82. The NPPF states that planning should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains for biodiversity where possible. In order to address this matter, the applicant proposes an offsite contribution of £10,000 to enhance biodiversity on an existing area of Council owned open space. Given the application site constraints it is considered the most viable solution to address the policy criteria and enable the development be acceptable in planning terms. The contribution would enable new trees to be planted to diversify the woodland canopy, diversify the scrub layer to provide bird breeding opportunity and the planning of additional wildflower species. This contribution would need to be secured by a section 106 agreement. The submitted ecology report also proposed erection of three no. bat boxes on the western wall of the development to replace any potential overnight roosts to compensate for the trees to be removed. A condition to this effect is recommended.
83. A number of European Protected Sites are within a 15km radius of the application site. These sites are the Castle Eden Dene Special Area of Conservation (SAC), Durham Coast SAC, Northumbria Coast Special Protection Area (SPA), European Marine Site and Ramsar Site and Teesmouth and Cleveland Coast SPA and Ramsar site. These sites vary in distance from the site from between 500m to 9Km.
84. In considering whether the application requires an appropriate assessment under The Habitats Regulations an assessment for the potential for significant effects on the relevant sites is required. In this instance those relevant sites are the abovementioned SACs and SPAs. The Habitats Regulations assessment also applies to the special features of the Ramsar sites identified above. Key potential effects of the development proposal upon these sites are; the degree of habitat and species disturbance through an increase in recreational pressure; potential for detrimental impacts on air quality; potential for detrimental impacts on water quality; and potential hydrology impacts.
85. The judgement of Durham County Council as competent authority is that the effects of the development would not be significant upon the potentially affected sites and as a result an appropriate assessment under The Habitats Regulations is not required. It is also advised by the Council's Ecology officers that the land associated with the application site is not allocated as mitigation in relation to these sites.
86. Overall, as a result of the mitigation secured the development is not considered to have an adverse impact on ecological interests and the development is considered compliant with EDLP Policies 1, 14, and 18 and Part 11 of the NPPF in this respect

Flooding and Drainage

87. EDLP Policy 1 sets out National advice within the NPPF and PPG with regard to flood risk advising that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

88. The application is accompanied by a flood risk assessment (FRA), which highlights that the application site is within flood zone 1 with a low flood risk probability. The FRA identifies that the development would result in the raising of ground levels within the development site that would impede overland flows from the south. However these would be retained in the woodland to the south until such time as flows would pass around the store and follow the same route to the north. The FRA suggest that this would reduce the risk of flooding to the existing dwellings to the north as flows would be retained to the south over a longer period of time. It is proposed that surface water would be directed to the existing public water sewer within the site with flows restricted to greenfield discharge rates of 5.2 litres per second. Surface water attenuation would also be utilised to accommodate a 1 in 100 year flood event. Foul water would discharge into the existing foul water sewer crossing the site.
89. The Council's Drainage and Coastal Protection officers offer no objection to the proposed methods of surface water attenuation set out in the FRA subject to a review of the proposed drainage scheme. Northumbrian Water also offers no objections subject to the implementation of the proposed drainage scheme, it is recommend to secure this by condition. The development is therefore considered to comply with Policy 1 of the EDLP and Parts 10 and 11 of the NPPF in this respect.

Other Issues

90. In relation to land contamination the applicant has submitted a phase 1 desk top study report which identifies that there is a low risk of contaminants being present on site, but site investigation work is recommended. After reviewing the submitted report the Council's Environment, Health and Consumer Protection officers (Contaminated Land) advise that the submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations.
91. Planning plays a key role in helping to reduce 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. The development would be expected to achieve a proportion of its energy supply from renewable resources, or through an equivalent level through energy effect measures. The applicant has submitted a sustainability statement setting out how this would be achieved, including reducing energy demand, the recovery of waste heat of chiller units and utilising sustainable building materials. The Council's Sustainability and Climate Change officers have reviewed this statement and offer no objections to the development. A condition to ensure this strategy is implemented is recommended.
92. Objections have been raised stating that the Council should not sell off its land, however this is not considered a matter for the Planning Authority to consider, it remit is to consider the planning merits of a development proposal.

CONCLUSION

93. The NPPF sets out that there are three dimensions to sustainable development, the economic, social and environmental roles and these roles should not be taken in isolation because they are mutually dependant.
94. The scheme would protect the vitality and viability of existing centres while providing new food retail facilities in an area where there are currently very limited facilities of this type. The scheme would also create the equivalent of 30 full time employment positions once the store is operational in an area which has high unemployment. The development would therefore contribute significantly to the economic and social dimensions of sustainable development.

95. In relation to the environmental effects, the re-development of the site would address its untidy condition and anti-social behaviour, while recognising that there would be some negative effects associated with the loss of vegetation and change in character of the site.
96. Whilst it is recognised that there would be some reduction in the level of amenity experienced by surrounding residential properties in relation to the proximity of the development and its operation, this is not considered to be at a level sufficient to warrant refusal of the planning application on its own
97. Subject to the attached conditions the proposal would be served by an appropriate means of access and would have an appropriate impact on the wider highway network. The scheme would not increase the risk of flooding elsewhere.
98. As a result of the mitigation secured the development is not considered to have an adverse impact on ecological interests. It is considered that the planning obligation to secure a £10,000 payment for offsite ecological mitigation meets the three planning tests set out in paragraph 204 of the NPPF and Section 122 of The Community Infrastructure Levy Regulations 2010. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.
99. The proposal has generated some public interest. Concerns expressed regarding the proposal have been fully taken into account, along with those in support, and carefully balanced against the scheme's wider social, economic and environmental benefits. However, they are not considered to raise issues that justify planning permission being withheld.
100. In the planning balance the scheme is considered to represent sustainable development when considering its three dimensions in accordance with the NPPF, whilst complying with relevant Easington District Local Plan policies.

RECOMMENDATION

That the application is **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure a contribution of £10,000 to enhance biodiversity on land adjacent to the application site, 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 and documents:

Proposed Site Plan, Drwg 0369 –AL(0)04 Rev C
Proposed Floor Plan, Drwg 0174 –AL(0)05 Rev C
Proposed Landscaping, Drwg 0369 –AL(0)09 Rev C
Proposed Separation Distances, Drwg 369-AL(0)10 Rev D
Proposed Elevations, Drwg 0369 – AL(0)07
Proposed Roof Plan – Drwg 0369 – AL(0)06
Sustainability Statement Ref 0369

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

3. Prior to the retail store hereby approved being brought into use, the protected right hand turn lane and pedestrian island on the B1320 Yoden Way indicated on the Proposed Site Plan, Drwg 0369 –AL(0)04 Rev C shall be constructed in accordance with engineering details that shall have first been submitted to and approved in writing by the Local Planning Authority .

Reason: In the interests of highway safety in accordance with Policies 1 and 36 of the Easington District Local Plan and Parts 4 and 8 of the NPPF

4. Prior to the retail store hereby approved being brought into use the proposed footpath link detailed on the Proposed Site Plan, Drwg 0369 –AL(0)04 Rev C shall be constructed in accordance with engineering details that shall have first been submitted to and approved in writing by the Local Planning Authority . The submitted details shall make appropriate provision for the lighting of the footpath link.

Reason: In the interests of promoting sustainable development in accordance with Policy 1 of the Easington District Local Plan and Parts 4 and 8 of the NPPF

5. Prior to the retail store hereby approved being brought into use, the 2 no. electric vehicle charging point car parking spaces depicted on the Proposed Site Plan, Drwg 0369 –AL(0)04 Rev C shall be created and be fully operational. The spaces thereafter shall only be solely for the use for the charging and parking of electric motor vehicles.

Reason: In the interests of promoting sustainable travel in accordance with Policy 1 of the Easington District Local Plan and Parts 4 and 8 of the NPPF

6. Prior to the retail store hereby approved being brought into use , the on-site cycle parking facilities depicted on the proposed site plan Proposed Site Plan, Drwg 0369 –AL(0)04 Rev C installed and all general car parking spaces shall be made available for use.

Reason: In the interests of highway safety and the promotion of sustainable transport in accordance with Policies 1 and 36 of the Easington District Local Plan and Parts 4 and 8 of the NPPF

7. Prior to the retail store hereby approved being brought into use, a Framework Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of promoting sustainable travel in accordance with Policy 1 of the Easington District Local Plan and Parts 4 and 8 of the NPPF

8. Within 6 months of occupation of the retail store hereby approved, a final Travel Plan, conforming to The National Specification for Workplace Travel Plans PAS 500:2008, Bronze Level, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of promoting sustainable travel in accordance with Policy 1 of the Easington District Local Plan and Parts 4 and 8 of the NPPF

9. The retail store hereby approved shall only be open to members of the public between the hours of 08:00 and 22:00 Monday to Friday and 10:00 and 16:00 Sunday and Bank Holidays.

Deliveries to the store shall not be undertaken outside of these operational hours, unless in strict accordance with the night time service yard management plan detailed in appendix 3 of the Noise Impact Report compiled by Environmental Noise Solutions Limited dated 14th march 2016.

Reason: In the interests of residential amenity in accordance with policies 1, 35 and 104 of the Easington District Local Plan and parts 8 and 11 of the NPPF.

10. Prior to the store hereby approved being brought into use the acoustic fencing adjacent to the delivery bay detailed in the Noise Impact Report compiled by Environmental Noise Solutions Limited dated 14th March 2016 shall be installed. The fencing shall thereafter be retained for the life time of the use.

Reason: In the interests of residential amenity in accordance with Policies 1, 35 and 104 of the Easington District Local Plan and Parts 8 and 11 of the NPPF.

11. Prior to the installation of any plant, a detailed noise impact assessment and scheme of sound attenuation measures shall be submitted to and approved in writing by the local planning authority. The scheme of attenuation measures shall ensure that the rating level of noise emitted from plant on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07:00-23:00 and 0dB LAeq (15 mins) between 23:00-07:00. The measurement and assessment shall be made according to BS 4142: 2014. The plant and any required attenuation measures shall be installed in accordance with the approved details thereafter.

Reason: In the interests of residential amenity in accordance with Policies 1, 35 and 104 of the Easington District Local Plan and Parts 8 and 11 of the NPPF.

12. Prior to the commencement of any part of the development hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

1. Overall strategy for managing environmental impacts which arise during construction;
2. Measures to control the emission of dust and dirt during construction;
3. Contractors' compounds, materials storage and other storage arrangements, cranes and plant, equipment and related temporary infrastructure;
4. Designation, layout and design of construction access and egress points;
6. Directional signage (on and off site);
9. Provision for all site operatives, visitors and construction vehicles for parking and turning within the site during the construction period;
10. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
11. Routing agreement for construction traffic.
12. Storage of plant and materials used in constructing the development;
13. The erection and maintenance of security hoarding/fencing including decorative displays and facilities for public viewing, where appropriate;

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

Reason:- In the interests of residential amenity and highway safety in accordance with policies 1, 35 and 104 of the Easington District Local Plan and Parts 4, 8 and 11 of the NPPF.

13. Notwithstanding the submitted information, prior to the installation of any external lighting, a lighting strategy shall be submitted and thereafter approved in writing with the Local Planning Authority. This strategy shall include :-
- A description of the proposed lighting units including height, type, angling and power output for all lighting
 - Drawing(s)/contour plans showing the luminance levels both horizontal and vertical of the lighting scheme to demonstrate that no light falls into the curtilage of adjacent neighbouring properties;
 - Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity.
 - Operational times of lights

The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

Reason: In the interests of residential amenity in accordance with Policies 1, 35 and 104 of the Easington District Local Plan and Parts 8 and 11 of the NPPF.

14. The development shall take place in strict accordance with the Mitigation detailed in Section 6 of the Bat Survey Report, including the installation of bat and bird boxes (All about trees, February 2016)

Reason: To conserve protected species and their habitat in accordance with Paragraph 109 of the NPPF.

15. No development approved by this permission other than preliminary site excavation and remedial works shall commence until a detailed scheme for the disposal of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be based on the principles of surface water management highlighted in the Flood Risk Assessment ref 15632/FPA dated April 16. The development shall be carried out and implemented in accordance with the approved scheme and timings thereafter.

Reason: In the interest of the adequate disposal of foul and surface water in accordance Parts 10 and 11 of the NPPF.

16. The landscaping detailed on the Proposed Landscaping, Drwg 0369 –AL(0)09 Rev C and Proposed Separation Distances, Drwg 369-AL(0)10 Rev D shall be implemented in the first planting season following the substantial completion of the development. Trees, hedges and shrubs part of the approved scheme shall not be removed without agreement within five years.

Reason: In order to mitigate the visual impact of the development and to protect residential amenity in accordance with Policies 1 and 35 of the Easington District Local Plan and Parts 7, 8 and 11 of the NPPF.

17. Prior to the store hereby approved being brought into use the proposed 1.2m high Solid timber fence and the weld mesh security fence depicted on the Proposed Site Plan, Drwg 0369 –AL(0)04 Rev C and Proposed Separation Distances, Drwg 369-AL(0)10 Rev D shall be erected on site. The fencing shall thereafter be retained for the lifetime of the development.

Reason: In the interests of residential amenity in accordance with Policies 1, 35 and 104 of the Easington District Local Plan and Parts 8 and 11 of the NPPF.

18. Prior to the commencement of development the tree protection measures detailed within the Tree Protection Plan and Method Statement Ref AMS TPP Revision B, shall be implemented on site and retained thereafter during the construction period. No Tree or hedge shall be removed unless detailed within the Arboriculture Impact Assessment revision B (All About Trees dated 7th January 2016)

Reason: In order to mitigate the impact of the development in the interest of visual amenity in accordance with Policies 1 and 35 of the Easington District Local Plan and Part 11 of the NPPF.

19. No development approved by this permission other than preliminary site excavation, remedial works and highway engineering works shall commence until a scheme to deal with potential land contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following, unless the Local Planning Authority is satisfied that the site is suitable for the proposed use and dispenses of any such requirements, in writing:

Pre-Commencement

- (a) A Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.
- (b) If the Phase 2 identifies any 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.

Completion

- (c) 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.

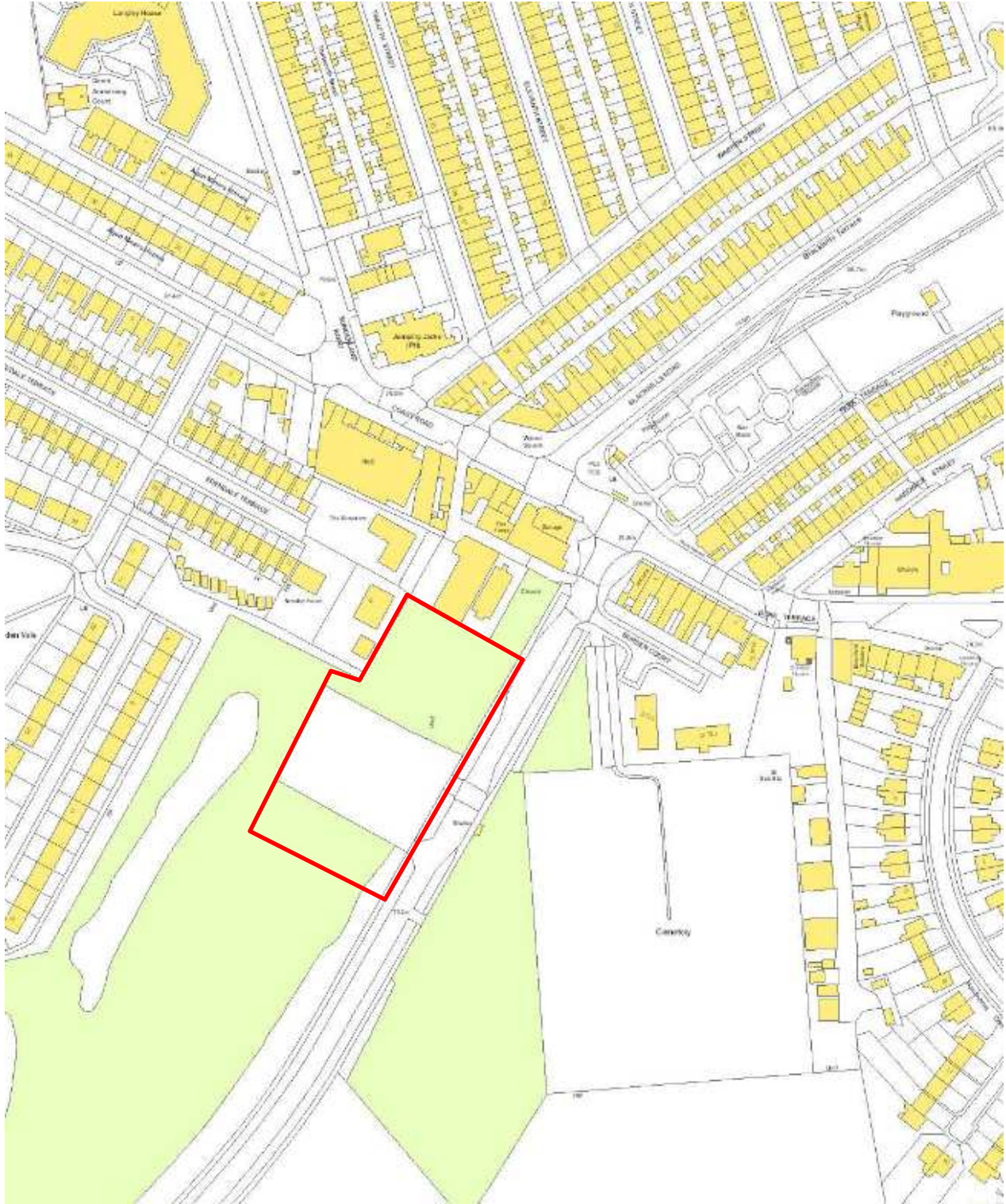
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours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

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this 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) (CC) 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 2001.
- Statutory, internal and public consultation responses.
- Retail and Town Centre Study 2013



Planning Services

Proposed retail store and associated works, Site of Peterlee Building Supplies, Yoden Way, Peterlee, SR8 4RD (DM/16/01356/FPA)

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Comments

Date 1st July 2016

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/16/00129/FPA
FULL APPLICATION DESCRIPTION:	Refurbishment of Weardale House to provide 24 student beds, demolition of 2 existing accommodation blocks and erection of purpose built student accommodation block (198 beds)
NAME OF APPLICANT:	College and Jansons Property
ADDRESS:	East Durham And Houghall Community College Houghall Durham DH1 3SG
ELECTORAL DIVISION:	Durham South
CASE OFFICER:	Henry Jones, Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of approximately 0.6ha of land within the East Durham and Houghall Community College site, an agricultural teaching college. This parcel of land contains Weardale House, two further buildings to its rear (the Derwent Unit and the Brancepeth, Stanhope, Hamsterley, Satley and Lanchester accommodation blocks) and the associated curtilage which comprises of areas of lawn, trees and pathways. The trees within the application site are protected by virtue of the Houghall College Tree Preservation Order (TPO) No. PN1-408.
2. The wider college site is approximately 380ha in size and is situated approximately one mile to the south east of Durham city centre. The campus boundary to the north is formed by the edge of the Durham (City Centre) Conservation Area with its southern boundary defined by the River Wear which forms the western edge of Shincliffe Village Conservation Area. Listed buildings are located within the vicinity of the application site. To the north of the site is the Durham University Sport campus. Sports pitches also lie to the east and west of the college buildings. To the east of the site is a plant centre and café, and approximately 750m to the south west of the main buildings is Houghall College Farm and an outdoor ménage. The campus is low lying and predominantly flat. The campus is essentially a patchwork of green open fields defined by hedgerows and trees with denser areas of woodland within the campus and enveloping it, most notably Great High Wood (ancient woodland) and Houghall, Maiden Castle & Little Woods Local Wildlife Site forming a scenic green backcloth to the west.

3. The college campus is located within the Durham City Green Belt, with the main group of buildings (which the application site forms part) being designated by the City of Durham Local Plan as a major developed site in the Green Belt. The site is within an Area of High Landscape Value (AHLV). The site is accessed via the A177 to the east.

The Proposal

4. The application proposals contain two main elements. Firstly, it is proposed to refurbish Weardale House to create a total of 24 student studios (1 bed) provided, 8 on the ground floor and 16 on the first floor. Associated communal spaces such as a reception, common rooms and kitchens would also be provided. Weardale House has most recently been used for teaching space at ground floor, with vacant accommodation at first floor. Physical alterations to Weardale House associated with the conversion works would involve internal alterations to accommodate the new layout whilst externally replacement windows are proposed together with a disabled access ramp, cycle store and bin store located to the rear of the building.
5. Secondly the two remaining buildings within the application site are proposed for demolition and replacement with a purpose built student accommodation building. The building would be "H shaped" and comprise of 3 floors of accommodation with a total of 198 student beds. The student accommodation would be provided as a mixture of 1 bed studios and cluster flats which share living and kitchen spaces. The lowest floor within the building would be elevated with the building beneath reserved as a flood defence measure.
6. The elevations of the proposed building would be constructed of red brick with terracotta through render sections and falzinc cladding to upper sections. Powder coated metal windows are proposed with a glazed curtain walling system in sections. The roof would be treated with a dark grey single ply PVC roofing membrane. The proposed building would have a total height of approximately 11.8m, width of approximately 56m and length of approximately 46m. Associated with the proposed building a rationalisation of the surrounding footpaths, erection of fencing, erection of a substation and provision of 6 parking spaces is are proposed.
7. The proposed student accommodation building would be for occupation by students in general. Therefore whilst some occupancy may come from Houghall College students themselves the majority are likely to be students from other further education establishments ie Durham University.
8. This planning application is being reported to the Central and East Area Planning Committee because it constitutes a major development with more than 1,000m² of floorspace proposed and is under 10,000sqm and less than 2ha.

PLANNING HISTORY

9. There have been over 20 previous planning applications in the last 19 years at the College which have largely been for advertisement consent, works to trees and temporary buildings.
10. Outline planning permission was granted in 2002 for additional residential and administration blocks, sports pitches, car park and an indoor tennis centre. This permission was never implemented.

11. Planning permission was granted in 2006 for the erection of a wooden cabin for use as a café.
12. Most recently in August 2015 planning permission was granted for the redevelopment of main entrance building to provide new glass lobby and single heighted atrium. Erection of animal care centre, animal sheds, equine centre, kennels, feed store, agility area, aviary, associated facilities, car parking and road widening (DM/15/01041/FPA). This planning permission followed that in 2014 for a similar redevelopment proposal and description (Ref CE/13/01542/FPA).

PLANNING POLICY

NATIONAL POLICY

13. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). 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. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
14. 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. The following elements of the NPPF are considered relevant to this proposal.
15. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
16. *NPPF Part 3 – Supporting a Prosperous Rural Economy.* Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
17. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
18. *NPPF Part 6 - Delivering a Wide Choice of High Quality Homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
19. *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. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.

20. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
21. *NPPF Part 9 – Protecting Green Belt Land.* The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. Green Belt land serves 5 purposes; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
22. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure 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.
23. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
24. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

25. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; flood risk; housing and economic development needs assessment land stability; noise; transport assessments and statements; tree preservation orders and trees in conservation areas; use of planning conditions and; water supply; wastewater and water quality.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

The City of Durham Local Plan (2004) (CDLP)

26. *Policy E1 – Durham City Green Belt.* Outlines the presumption against inappropriate development in the Green Belt in order to preserve its intrinsic openness.
27. *Policy E2 – Major Developed sites in the Greenbelt – Infilling.* Limited infilling will be allowed provided that it has no greater impact on the openness of the Green Belt than the existing development, it does not exceed the height of existing development and it does not lead to a major increase in the developed proportion of the site.
28. *Policy E2A – Major Developed Sites in the Green Belt – Redevelopment.* States that redevelopment will be permitted where it has no greater impact on the openness of the Green Belt than the existing development, it does not exceed the height or site coverage of existing development and contributes to the achievement of the objectives for the use of land in the Green Belt.
29. *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.
30. *Policy E7 – Development outside of Settlement Limits.* Development outside of settlement boundaries will only be permitted when it accords with other policies in the plan.
31. *Policy E10 – Areas of Landscape Value.* Is aimed at protecting the landscape value of the district's designated Areas of Landscape Value.
32. *Policy E14 – Protection of Existing Trees and Hedgerows.* Views hedgerows and trees as a valuable resource to be protected when new development is being considered.
33. *Policy E15 – New Trees and Hedgerows.* Tree and hedgerow planting is encouraged.
34. *Policy E16 – Nature Conservation – the Natural Environment.* 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.
35. *Policy E18 – Site of Nature Conservation Importance.* The Council will seek to safeguard sites of nature conservation importance unless the benefits from the development outweigh the nature conservation interests of the site, there are no alternatives sites and measures are undertaken to minimise adverse effect associated with the scheme and reasonable effort is made by appropriate habitat creation or enhancement to compensate for damage.

36. *Policy E21 – Historic Environment.* The Council will preserve and enhance the historic environment by requiring development proposals to minimise adverse impacts on significant features of historic interest and encourage retention repair and re-use of buildings and structures which are not listed but are of visual and local interest.
37. *Policy E22 – Conservation Areas.* This policy 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.
38. *Policy E23 – Listed Buildings.* The Council will seek to safeguard listed buildings by not permitting development which detracts from its setting.
39. *Policy E24 – Ancient Monuments and Archaeological Remains.* Ancient monuments and other nationally significant archaeological remains and their settings will be preserved in situ and damage would not be permitted. Archaeological remains of regional and local importance will be protected in situ and where preservation in situ is not justified by, ensuring that in areas where there is evidence that significant archaeological remains exist, or reasons to pre-suppose they exist, pre-application evaluation or archaeological assessment will be required and requiring as a condition of planning permission, that a programme of archaeological investigation, recording and publication has been made.
40. *Policy H16 - Residential Institutions and Student Halls of Residence.* This policy 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.
41. *Policy Q1 – General Principles – Designing for People.* The layout and design of development should take into account the requirements of users including personal safety and crime prevention and accessibility requirements.
42. *Policy Q2 – General Principles Designing for Accessibility.* The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
43. *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.
44. *Policy Q15 – Art in Design.* This policy 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.
45. *Policy R11 – Public Rights of Way and other Paths.* Public access to the countryside will be safeguarded by protecting the existing network of PROW's and other paths from development which would result in their destruction.
46. *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.

47. *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.
48. *Policy T20 - Cycle Facilities –* Seeks to encourage appropriately located, secure parking provision for cyclists.
49. *Policy U5 – Pollution Prevention – General.* Planning permission for development that may generate pollution will not be granted if it results in; an unacceptable adverse impact upon the quality of the local environment; the amenity of nearby and adjoining land and property or; will unnecessarily constrain the development of neighbouring land.
50. *Policy U7 – Pollution Prevention – Development Sensitive to Pollution.* *Developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.*
51. *Policy U8a – Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing of foul and surface water discharge. 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.
52. *Policy U9 – Watercourse.* States that development that affects watercourses will only be permitted provided that it; does not increase flood risk; does not pollute the watercourse; results in no adverse nature conservation or landscape impacts.
53. *Policy U10 – Natural Flood Plains.* Proposals shall not be permitted in flood risk areas or where development may increase the risk of flooding elsewhere unless it can be demonstrated by way of sequential test that there is no alternative option available at lower risk, there will be no unacceptable risk of flooding, there will be no unacceptable increase in risk of flooding elsewhere and appropriate mitigation measures can be put in place to minimise the risk of flooding which can be controlled by planning condition.
54. *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.
55. *Policy U12 – Development near Contaminated Land.* Measures must be undertaken which would be sufficient to stop contaminants leaches or gases penetrating the site and accumulating in buildings and structures which could be harmful gases should be prevented from migrating into surrounding land.
56. *Policy U14 - Energy Conservation – General.* States that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY:

The County Durham Plan

57. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

Durham City Neighbourhood Plan

58. In July 2013 Durham City was granted approval for designation of a neighbourhood area having regards to the Neighbourhood Planning (General) Regulations 2012. A Neighbourhood Forum has been established to prepare a Neighbourhood Plan for much of the unparished area of the City. The Neighbourhood Forum is still at the evidence gathering stage of the plan preparation and as a result there is no policy position within the emerging Neighbourhood Plan against which to assess the application.

The above represents a summary of those policies considered most relevant. The full text, criteria, and justifications of each may be accessed at:

<http://www.durham.gov.uk/article/7215/Durham-City-Local-Plan> (City of Durham Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

59. *Highway Authority* – Raise no objections. The site is considered to be located within a sustainable location. A permit parking scheme is to be implemented and parking standards are being met by the development. Significant off-site parking demand is not likely to occur. An assessment of the net change in vehicular and pedestrian movements as a result of the development has been undertaken which indicates that flows towards the City Centre at peak times can be accommodated by the existing highway network.
60. *Northumbrian Water* – Raise no objections subject to a condition being added to any planning permission to resolve the management of surface and foul water emerging from the development.
61. *Environment Agency* – Raise no objections subject to a condition being added to any planning permission that the development is implemented in accordance with the mitigation measures contained within the submitted flood risk assessment.
62. *Drainage and Coastal Protection* – Raise no objections. The development should be implemented in accordance with the recommendations contained within the flood risk assessment.

INTERNAL CONSULTEE RESPONSES:

63. *Spatial Planning* – Raise no objections. Advice is provided on the planning policy context including regard to the status of the development plan and emerging plan considerations including the interim student accommodation policy. It is confirmed that whilst the application relates to a residential use, student accommodation is not considered to be a component of housing land supply and therefore the current housing land supply position is not relevant to the determination of the application. The proposed purpose built student accommodation building is considered to constitute inappropriate development in the Green Belt and therefore the key consideration is whether very special circumstances have been demonstrated to permit the development.
64. *Landscape* – Raise no objections. The proposed building would not have a significant effect on the character of the wider landscape or its immediate campus setting. In turn no unacceptable adverse impact on the landscape quality or appearance of the designated Area of High Landscape Value would result from the development. The site is described as being visually relatively well contained. Trees covered by a TPO are proposed for removal with some adverse impact as a result. Replacement trees should be planted. Trees to be retained should be protected from the development works.
65. *Design and Conservation* – Raise no objections. Impacts upon heritage assets are considered limited to the impact of the proposed new building upon the setting of the non-designated heritage asset of Weardale House. Limited harm is considered to occur as a result of the location and scale of the proposed building. However, this should be balanced against the beneficial impact of ensuring the use of the heritage asset through a viable redevelopment proposal. No objections are raised on more general terms to the scale or design of the proposed building which is considered an acceptable contemporary response to the site. No objections are raised to the refurbishment proposals at Weardale House.
66. *Employability* – Request that targeted recruitment and training clauses are included within a S106 legal agreement in the event of approval.
67. *Environment, Health and Consumer Protection (Contaminated Land)* – Raise no objections, however, a contaminated land investigation/remediation condition should be added to any planning permission.
68. *Environment, Health and Consumer Protection (Noise, Dust and Odour)* – Raise no objections. The mitigation measures contained within the submitted noise impact assessment should be ensured via condition.
69. *Environment Health and Consumer Protection (Air Quality)* – Raise no objections. A condition should be added to any planning permission so as to ensure the implementation of a Dust Action Management Plan during the construction/demolition phase of the development. No concerns are raised with regards to the operational phase of the development, however, it is recommended that a travel plan should be implemented.
70. *Ecology* – Raise no objections the recommendations contained within the submitted ecology reports should be implemented and a condition added to ensure this.
71. *Sustainability* – Raise no objections. Further details with regards to how the scheme embeds sustainability and minimizes carbon from construction and operational emissions are requested.

72. *Archaeology* – Raise no objections. Recent evaluation work in the vicinity of the site found no archaeology to be present. No further archaeological works are necessary either pre or post determination.
73. *Access and Public Rights of Way* – Raise no objections, the development would not affect any recorded public rights of way.

PUBLIC RESPONSES:

74. The application was advertised within the press, on site and letters were sent to neighbouring properties. A total of 6 letters of have been received 4 raising objection and 2 in support/raising no objection. The matters raised are summarised below.

Objection

- Objection to the scale and appearance of the proposed building.
 - The development is inappropriate development in the Green Belt.
 - Adverse impact upon the rural and green belt surroundings of the site.
 - Adverse impact upon the non-designated heritage assets at Houghall College.
 - Concerns raised regarding the safety of pedestrians and cyclists in movements to and from the site.
75. *City of Durham Trust* – Raise objections. The development is contrary to relevant national and local guidance on development in the Green Belt and the applicant's justifications for this form of development in the Green Belt are disagreed with. It is suggested that there is not the need for further purpose built student accommodation. Accessibility for cyclists is considered to be unsatisfactory.
76. *Campaign to Protect Rural England (CPRE)* – Raise objections. It is stated that in sheer principle terms the CPRE do support purpose built student accommodation developments in locations which would divert pressure from the City Centre. However, the development is considered inappropriate development in the Green Belt and it is considered that the necessary "very special circumstances" to permit such development has not been demonstrated. Concerns are also expressed with regards to flood risk.

Support

- Comments of no objections to the refurbishment of Weardale House are made.
77. *Durham Constabulary Architectural Liaison Officer* – Raise no objections. The crime risk assessment for the proposed development is assessed as being low, however, it is stated that a robust management plan must be implemented. Advice is provided in regards to ensuring the security of external doors and windows and that adequate lighting is provided.
78. *Durham University* – Support the application. It is considered that the proposal could meet a student accommodation need within the City which is currently unmet by available and approved purpose built student accommodation developments.

APPLICANTS STATEMENT:

79. East Durham College is a medium-sized Further Education college with two main campuses, both in County Durham - Peterlee and Houghall. The Houghall campus is the only site delivering land-based educational courses in County Durham. The campus itself employs 162 staff and an average of 700 students per academic year.

80. The first phase of a campus-wide redevelopment is currently underway and will be open for the upcoming academic year. It involves the erection of small animal care, Equine and Agricultural buildings in addition to refurbishment of some existing buildings. Beyond Phase 1 the college still has many buildings which are in a poor state with over 97% being classified as Category C & D. The College have always had a long term masterplan to continue replacing their aged buildings and enhancing their facilities and educational offer, of which this application forms part.
81. This proposal seeks to replace existing student accommodation, originally built in the 1960's, which is now sub-standard and in no way meets the requirements of modern-day students. The scheme is a mixture of part new build and part conversion, the existing Weardale house being converted and brought into viable use. The new build proposal replaces the existing buildings on a greater scale to accommodate a total of 222 bedrooms but importantly has been designed in such a way to account for long and medium range views to avoid adverse landscape impacts in this sensitive location.
82. The redevelopment will provide the College with the means to fully implement the previously approved Phase 1 development, which has had to be scaled back from its original plans due to unforeseen rising development costs. It will also assist in creating a much stronger financial profile for the college.
83. Whilst the college may have a need to utilise some of the newly created bedrooms and in line with our growth plans our demand for beds could increase in time, however to be viable it will also serve University students and is particularly well related to the Maiden Castle Sports Centre and the growing number of elite athletes that use this facility.
84. This proposal and provision of on-site accommodation is the next logical step after Phase 1 and will then allow the college to focus upon the further phase namely the consolidation of the remaining buildings and creation of a new centralised teaching and administration block, it is hoped this can come forward within the next five years.

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

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

85. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to impacts upon the Green Belt, acceptability of student development at the site, landscape impact; design and heritage impact, flood risk and drainage, highway safety and accessibility, residential amenity; and ecology.

Impacts upon the Green Belt

86. The CDLP allocates the Houghall College site as a designated major developed site within the Green Belt.

87. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 85 that the Green Belt serves five purposes. At Paragraphs 89 and 90 it states that the construction of new buildings within the Green Belt should be considered as being inappropriate development, except in specific, identified instances, and at paragraph 87 it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in “very special circumstances”.
88. Paragraph 88 clarifies that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
89. CDLP Policy E1 relates to the Green Belt in general and in similarity to NPPF Paragraphs 89 and 90 establishes the forms of development that are considered appropriate. However, Policy E1 is considered only partially consistent with the NPPF as it is more restrictive than the guidance within the NPPF which introduces a wider scope of development that can be considered appropriate in the Green Belt. As the policy is partially consistent with the NPPF it can be attributed weight in the decision making process.
90. CDLP Policies E2 and E2A relating to major developed sites in the Green Belt are considered consistent with the advice contained within the NPPF and therefore should be attributed their full weight in the decision making process.
91. The refurbishment of Weardale House which would result in alterations to an existing building within the site but without any disproportionate additions or greater impact on the openness of the Green Belt and would not therefore constitute inappropriate development.
92. However, it is considered that the proposed purpose built student accommodation building would constitute inappropriate development. The proposed building would replace two existing buildings with one single building larger in size both in respects to its height and massing and also in terms of its floor area and coverage of the site. Although the site forms part of a wider designated major developed site within the Green Belt it is considered that the newbuild proposal would result in a redevelopment which would have a greater impact on the openness of the Green Belt and does not constitute one of the forms of development identified within CDLP Policies E2 and E2A or at NPPF Paragraphs 89 and 90 that would not be inappropriate.
93. The development is therefore only acceptable if very special circumstances exist and consideration must therefore be given to the amount of harm arising from the inappropriate development and in turn the extent of the benefits to be delivered by the development so as to inform on whether those benefits clearly outweigh the harm (both in terms of Green Belt and any other harm) so as to amount to very special circumstances.

Level of harm to the Green Belt

94. The NPPF does state that any inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be attributed to any harm. However, there can nevertheless be varying degrees of harm in the Green Belt.

95. Paragraph 80 of the NPPF sets out the five purposes of Green Belt, and the designation of Green Belt, which are as follows;
- To check the unrestricted sprawl of large built-up areas;
 - To prevent neighbouring towns merging into one another;
 - To assist in safeguarding the countryside from encroachment
 - To preserve the setting and special character of historic towns; and
 - To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
96. The proposed development would remain within the bounds of the designated major developed Green Belt site. The application site is bounded by a road to its immediate north-east, north-west and south-west and buildings within the said designated site to the south-east. It is therefore considered that the development would not result in a harmful sprawl of development or contribute to any merging of settlements.
97. The justification to CDLP Policy E1 highlights that of all the purposes for including land within the Durham City Green Belt the need for the designation so as to aid in preserving the special character of Durham City is of particular importance. The impact of the development upon heritage assets is considered in more detail elsewhere in this report, however, it is considered that the development would not result in any harmful impacts upon the setting of Durham (City Centre) Conservation Area or indeed nearby Shincliffe Village Conservation Area. It is considered that the development would result in no harmful impacts upon the setting and special character of these nearby historic settlements.
98. Due to the impact on the openness of the Green Belt by reason of the scale and massing of the proposed development it is considered that a visual encroachment into the countryside would result. Currently Weardale House is the highest building on the site and the most dominant. The two accommodation blocks proposed for demolition are lower and appear subservient to this main building.
99. The proposed building would be greater in height than Weardale House by approximately 2m at the highest point. The proposed building would result in three floors of accommodation (together with a vacant lower floor necessary for flood risk alleviation purposes) across the entirety of its "H" shaped floor area. This would result in a clear and noticeable change in comparison to the existing two and single storey buildings to be replaced.
100. The greater scale of the proposed building over the existing, would be apparent in views towards the site and the extent to which the current openness of the Green Belt and countryside would be affected would be apparent. Examples of such views include those from Bent House Lane and from Public Footpath No. 32 (Durham City).
101. However, Landscape Officers consider that the site is visually well contained whilst wider landscape impacts are considered to not be significant. With respect to effects on the Green Belt, Landscape Officers consider that the development would not result in a significant effect on the visual perception of the openness.

102. It should also be noted that an existing redevelopment proposal is in the process of being built-out at the site. This redevelopment proposal (known as Phase 1) most recently approved under application DM/15/01041/FPA in August 2015 comprises of a range of developments which, if completed, would result in the erection of a range of agricultural buildings to the rear (south-west) of the proposed student accommodation building. This extant planning permission would result in an increase in built development on the periphery of the application site and would have an impact in screening elements of the proposed building. As a result, it is considered that once Phase 1 (or elements of) is completed, the addition of the proposed student accommodation building, though clearly adding to the overall visual impact at the campus, would be a less obvious addition to the grouping in visual terms than if no Phase 1 development were to occur. Instead, the proposal would become a further element of the enlargement to the current grouping of buildings at the campus.
103. It is also noted that during the course of the application the proposed building has been reduced in scale, with a floor of accommodation removed, so as to lessen the impact upon the openness of the Green Belt and provide a form of development in terms of scale and mass more appropriate to existing buildings on site.
104. Overall, a clear and noticeable impact upon the openness of the Green Belt and encroachment into the countryside would result from the development. The impact of this inappropriate development is by definition harmful and must be attributed substantial weight in the decision making process. Nevertheless, the above described mitigating factors limit the extent of this harm.
105. The development would make use of previously developed land and involve the demolition and replacement of underused and vacant buildings. However, the site being located within the open countryside is not urban land. The applicant's justification for the development (discussed in more detail elsewhere in this report) seeks to highlight intrinsic linkages between the proposal and the site and therefore that the development cannot occur in another location. Notwithstanding the content of the very special circumstances argument, clearly there is potential for a student accommodation development to be developed in a location which would recycle land in an urban location and extant planning permissions on such land do exist within Durham City.
106. As a result it is considered that the proposals' conflict with the five purposes of the Green Belt rests on the encroachment into the countryside and the resultant impact on the openness of the Green Belt and to a lesser extent that the development would not encourage urban regeneration.

Very Special Circumstances

107. As the development constitutes inappropriate development, the proposal can only be considered acceptable if very special circumstances exist which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm.
108. The applicant has submitted a Very Special Circumstances Justification (VSC Justification). This VSC Justification highlights that not all elements of the previously approved Phase 1 redevelopments at the campus can currently materialise.

109. The Phase 1 redevelopment proposals approved under application DM/15/01041/FPA (and previously under application CE/13/01542/FPA) were based upon a very special circumstances case. Within these applications it was acknowledged that the agricultural, equine and land-based teaching college is a well-established, unique and valuable facility for the whole County and that the proposals would support and benefit the local economy by providing both employment and skills development which can contribute to the well-being of the local economy and community. Internal and external review of teaching and learning at the campus has evidenced that there is a poor standard of accommodation and resources at the College. An Ofsted inspection as far back as 2002 identified concerns relating to the provision of land based courses including poor resources and accommodation for equine and animal care studies and that overall quality of provision is poor, which impacts on the education that students receive. In turn the college has been under threat from competition from other agricultural colleges in neighbouring Cumbria and North Yorkshire.
110. The VSC Justification explains that the construction contract relating to the Phase 1 redevelopment does not include the whole scope of the latest planning permission. After engagement with the main contractors Phase 1 was scaled back as the budget was insufficient to complete all elements as designed. Elements of the Phase 1 redevelopment not contained within the construction contract include the refurbishment of the existing outdoor equine arena, reinstatement of a grain store, IT upgrade and furniture and fitted equipment upgrade. Missing elements of the approved phase 1 scheme would result in a less comprehensive redevelopment scheme and the extent of the improvements to the campus facilities and in turn educational offer would be more limited than previously anticipated.
111. The capital receipt that would be received as a result of the development proposal subject to this application can in part be utilised so that the remaining elements of the Phase 1 scheme come into fruition.
112. Furthermore the vast majority of the Phase 1 redevelopment is paid for through a Local Enterprise Partnership (LEP) grant. However, a loan and reserve monies were necessary to gap fund a shortfall of approximately £2 million. This loan added to existing loans of the college results in total borrowings of the college of 46% of their income. The July 2015 Area Based Review (ABR) of Further Education Colleges assesses how sustainable and ultimately how financially secure Further Education institutions are going forward.
113. Based upon the current borrowings as a percentage of income the college would not score well on this measure, as the ABR sets a threshold of 40%. What this means in practice is that the college has to reduce its borrowings to improve its financial sustainability. At 46% of borrowings to income the college would not easily be able to raise more capital to fund ongoing improvements to its premises or to plan for future phases of its Houghall campus consolidation (which are aspirations of the college).
114. As a result of the capital receipt gained from the development proposal the applicant states that they would commit towards to the completion of the Phase 1 redevelopment (which the construction contract currently would not). The applicant states within the VSC justification that this would represent a £770,000 commitment. The applicant also states that a further £400,000 commitment would be made to repay a loan so as to improve its overall financial position and increase future borrowing potential. The VSC justification highlights that this would place the college on a more even keel financially and in a stronger position to undertake further improvements to the college.

115. The VSC Justification states that the applicant would enter into a S106 legal agreement to ensure those elements of the Phase 1 redevelopment currently missing from the construction contract are undertaken.
116. Reviewed against the CIL regulations and NPPF paragraph 204 the S106 commitment to agree a precise schedule of works and to complete the Phase 1 redevelopment works is considered necessary to make the development acceptable and is related to the development as it forms part of the very special circumstances case without which the development would be unacceptable. The works to be ensured by the S106 are considered fairly and reasonably related in scale and kind to the development. However, it is considered that the applicant's proposal to repay a loan debt is less clearly related to the development itself. Though an additional offer of the applicant, it is considered that the commitment to repay a loan debt should not be afforded weight in the decision making process.
117. The VSC Justification highlights that a degree of redevelopment could occur at the site and constitutes appropriate development for which there would be no planning policy objection. In principle this is correct, CDLP Policy E2 permits some infilling development for example, whilst the NPPF accepts redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt and accepts that existing buildings can be enlarged provided that additions are not disproportionate.
118. The VSC Justification presents a theoretical exercise on how the grouping of buildings at the campus could be redeveloped in a way that would not constitute inappropriate development within the Green Belt and that this could provide 114 accommodation beds. Whilst a theoretical exercise it does demonstrate in principle that some redevelopment works could occur at the site which would not constitute inappropriate development within the Green Belt.
119. It is also noted that a particular quantum of development is likely required for the scheme to be deliverable and viable. Purpose built student accommodation schemes of too small a scale can be unattractive to investors in the student market. There must also exist competitive returns to a willing land owner/developer for a scheme to be deliverable.
120. The submitted VSC Justification states that a further benefit of the development would emerge from the re-use and refurbishment of Weardale House and remedial works to its chimneys, which is a non-designated heritage asset. This benefit, however, must be tempered by any impact to its setting caused by the development proposal itself and this is discussed in more detail elsewhere in this report.
121. Ultimately in planning terms, the key consideration is simply whether there are considerations which clearly outweigh the degree of harm to the Green Belt such that very special circumstances exist. The final planning balance of all considerations cannot be undertaken until all material considerations have been assessed and this is considered in detail later in this report.

Acceptability of Student Development at the Site

122. CDLP Policy H16 relates to student halls and forms of residential institution. Subject to a number of criteria being met such development will be permitted within settlement boundaries. The application site is not within a settlement boundary but within the designated Durham City Green Belt and in turn within the countryside. CDLP Policy E7 relates to development outside of settlement boundaries and establishes those forms of exceptional development which can be considered acceptable within the countryside. Purpose built student accommodation is not identified as an acceptable form of development within CDLP Policy E7. The development is therefore contrary to Policies E7 and H16 in this regard.

123. The Council has recently approved an Interim Policy on Student Accommodation subsequent to public consultation. This policy introduces criteria that purpose built student accommodation proposals will be required to demonstrate that; there is a need for additional accommodation; that the accommodation is deliverable; that the development would not have a negative impact on retail, employment, leisure, tourism or housing; and partnership working with the relevant education provider has taken place. The policy advises that development will not be permitted unless a number of further criteria are met. Some of the criteria relates to general development principles such as design, layout and parking standards. However, the interim policy also requires that any proposed student accommodation development is readily accessible to an existing university or college academic site, that the impacts of the occupancy of the development is acceptable having regards to the amenity of surrounding residents and that the applicant has demonstrated that the security of the building and its occupants has been considered along with other local residents and legitimate users.
124. The interim policy does not form part of the development plan and therefore the weight which should be attributed to the interim policy in the decision making process is less than a development plan policy.
125. It is considered, however, that the application does demonstrate significant compliance with the interim policy. It is particularly noteworthy that Durham University have submitted supportive comments with regards to the development stating that the proposal could meet a student accommodation need within the City which is currently unmet by available and approved purpose built student accommodation developments. It is considered that the development would result in no negative impacts upon retail, employment, leisure, tourism or housing. Indeed the development has the potential to strengthen the position of Houghall College, an institution valued within the County.
126. Matters of accessibility are discussed elsewhere within this report, however, the site is considered an accessible location for a student development despite its siting within the Green Belt. This degree of accessibility complies with guidance contained within CDLP Policy H16 albeit it is acknowledged it is in conflict with the policy due to the siting beyond a settlement boundary. Furthermore the proposal would in part replace existing accommodation at the site rather than introducing a wholly new form of development to the wider campus.
127. Similarly matters of residential amenity are discussed elsewhere within this report. However, it is considered that the development would not result in any unacceptable adverse impacts upon existing residents. In accordance with the interim student policy the application is accompanied by a student management plan. The end operator of the student accommodation is not known at this stage and therefore the student management plan establishes management principles. A condition can be added to any approval requiring that a final management plan be devised. Again the considered acceptability of impacts upon residential amenity is compliant with guidance contained within CDLP Policy H16.
128. The proposed purpose built student accommodation building due to its location within the countryside is contrary CDLP Policies H16 and E7. However, despite this the site is considered a sustainable location for student accommodation. If occupied by Houghall College students the building would provide accommodation on site. Even if occupancy is predominantly by University students the site is within easy reach of existing University facilities, including Mountjoy and Maiden Castle and the city centre. As a result it is considered that the development can still be considered acceptable provided that very special circumstances can be demonstrated and no other harm exists which would warrant the withholding of planning permission.

Landscape Impact

129. Though the above discussion considers the impact of the development in the context of the Green Belt, consideration must also be had to the acceptability of the development in more general landscape and visual impact terms.
130. The application is accompanied by a landscape and visual impact assessment (LVIA) which has been updated during the course of the application to reflect design changes to the purpose built student accommodation proposal.
131. The application site lies within a locally designated Area of High Landscape Value (AHLV) to which CDLP Policy E10 applies. Essentially Policy E10 states that development that would have an unacceptable adverse impact upon the AHLV will be resisted. As a locally designated landscape it is considered that the landscape within which the application site is located constitutes a valued landscape which NPPF paragraph 109 states should be protected and enhanced.
132. Landscape Officers raise no objections to the development. The site and development would primarily be visible from the immediate grounds of the college to the north and west, in filtered views from footpaths within Great High Wood and in views from a section of the A177 from which it is otherwise screened by roadside vegetation. In terms of the effects of the development upon landscape features the development would entail the loss of a number of specimen trees which are covered by a TPO. These are attractive and valued assets to a campus with a strong arboricultural identity but the trees do not figure significantly in wider views. The loss of the trees can be accepted, however, planting specimens elsewhere to compensate for the loss should occur and a condition in the event of an approval can ensure this.
133. In terms of impacts upon landscape character, Landscape Officers consider that the development as a whole would not have significant effects on the character of the wider landscape or its immediate campus setting whilst an unacceptable adverse impact on the landscape quality or appearance of the AHLV would not occur. In terms of visual effects the site is visually relatively well contained. The proposed student accommodation building would be visible in views as presented within the submitted LVIA, however, significant effects on the visual amenity of the users of roads and footpaths in the vicinity would not occur.
134. As a result officers raise no objections to the impacts of the development as a whole in landscape and visual impact terms with the development considered compliant with CDLP Policies E10, E14, E15 and Q5 and Parts 7 and 11 of the NPPF. CDLP Policies E10, E14, E15 and Q5 are considered either fully (E14, E15 and Q5) or partially (E10) consistent with the NPPF and can be attributed weight in the decision making process.

Design and Heritage Impact

135. The application is accompanied by a Heritage Statement (HS). The HS highlights that a number of designated heritage assets are located within close proximity of the site though none within the site. Designated heritage assets in the vicinity of the site include Durham (City Centre) Conservation Area (approximately 180m to the north), Shincliffe Village Conservation Area (approximately 470m to the south-east), Durham Castle and Cathedral World Heritage Site (WHS) (approximately 1km to the north-west), the Grade II listed Boundary Stone (approximately 100m to the north-east), the Grade II listed Water Board Cottages (450m to the south-east), the Grade II listed Shincliffe Bridge (approximately 520m to the south-east), the Grade II listed medieval barn to the rear of Houghall Farm (approximately 1km to the south) and Maiden Castle Scheduled Monument (approximately 330m to the north). Within the grouping of the Houghall College campus buildings Weardale House is identified as a non-designated heritage asset.

136. In assessing the proposed development regard must be had to the statutory duties imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990. Firstly, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Secondly, the LPA must pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. If harm is found any such harm must be given considerable importance and weight by the decision-maker.
137. Impacts upon several of the designated heritage assets are discounted within the submitted HS due to the lack of intervisibility between the assets and the site including the WHS, Maiden Castle, and the Grade II listed Water Board Cottages. The submitted HS therefore focuses its heritage impact assessment upon Durham (City Centre) Conservation Area, Shincliffe Conservation Area, the Grade II listed Boundary Stone and the non-designated Weardale House.
138. The HS considers that no harm would occur upon the significance of the Grade II listed Boundary Stone. Though the proposed development would be visible in the same views as the heritage asset, it is considered that this would not be harmful. The significance of the stone is primarily historic in its identification of an historic boundary and this would be unaffected by the development.
139. The proposed student accommodation building would be visible from the boundary of the Durham (City Centre) Conservation Area at the bottom of Great High Wood and the A177. The significance of this steep wooded embankment is in containing views of and from Durham (City Centre) Conservation Area and marking the change from an urban to rural landscape. Despite the greater scale and visual impact of the proposed student accommodation building the overall context of a rural campus set in an agricultural context would not alter. The HS concludes that the impacts of the development upon the Conservation Area would be neutral.
140. The HS considers that views of the proposed development from Mill Lane within Shincliffe Conservation Area would be limited to glimpsed views rather than any prominent impact. These glimpsed views would not be harmful upon the Conservation Area.
141. The HS considers that minor harm would occur upon the non-designated heritage assets within the Houghall College campus due to the impact that the introduction of a student accommodation building of this scale would have upon the setting and therefore significance of the asset.
142. Design and Conservation Officers raise no objections to the content of the submitted HS and its conclusions are essentially agreed with. Limited harm upon Weardale House as a result of the scale and siting of the proposed student accommodation building is identified. No harm to designated heritage assets is identified.
143. However, it is also acknowledged that the implementation of the proposed development would result in the refurbishment and reuse of Weardale House and the applicant has stated that the schedule of works to complete the Phase 1 redevelopment would include repair works to its chimneys. These impacts would be beneficial upon the non-designated heritage asset and overall it is considered that the impacts upon the asset would therefore be neutral.

144. In general design and character terms Design and Conservation state with regards to the proposed student accommodation building that architecturally the contemporary form follows function, the development designed as a clear planned building type with a clear effort to synergise the new and old developments by materiality. The “H shape” of the proposed building is described as mirroring the plan-form of the adjacent Weardale House. The simple palette of materials proposed to the external envelope - primarily red brickwork, zinc cladding and powder coated aluminium glazing assist in breaking down the scale of the building and respond to the colour palette of Weardale House. No objections to the design of the proposed student accommodation building are raised.
145. Archaeology officers raise no objections. Recent evaluation work in the vicinity of the site found no archaeology to be present. No further archaeological works are necessary either pre or post determination.
146. Overall impacts upon both designated and non-designated heritage assets either within or in the vicinity of the application site are considered to be neutral. No objections are raised to the development on design grounds. The application is therefore considered compliant with CDLP Policies E6, E21, E22, E23, E24, Q1 and Q2 and Parts 7 and 12 of the NPPF. CDLP Policies E6, E21, E22, E23, E24, Q1 and Q2 are considered either fully (E21, E22, E23, E24, Q1 and Q2) or partially (E6) consistent with the NPPF and can be attributed weight in the decision making process. There is no conflict with the statutory duties imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990.

Flood Risk and Drainage

147. The application site is located entirely within flood risk zone 3a and therefore a high probability of the risk of flooding applies to the site.
148. National guidance contained within the NPPF and PPG advises that a sequential risk based approach at all stages of development should be taken with regards to flood risk the aim being that where possible development is steered towards the areas of least risk. If it is shown that it is not possible, consistent with wider sustainability objectives, for the development to be located in zones of lower flood risk then where appropriate, a further “Exception Test” should apply. This Exception Test applies to the development as the student accommodation nature of the proposal constitutes a “more vulnerable” type of land use.
149. The application is accompanied by a site specific flood risk assessment (FRA), a Sequential Test and an Exception Test. The Sequential and Exception Test submissions have been updated during the course of the application to reflect the supplementary justifications to the development which the applicant has submitted.
150. The submitted Sequential Test considers that alternative reasonably available sites in areas of lower flood risk do not exist to provide the proposed development. The submissions on the Sequential Test effectively reflect the VSC Justification with respects to the Green Belt in that the submission considers that in order for the benefits to the agricultural college to emerge the proposed student development scheme must be located on college land. The Sequential Test therefore discounts the availability of sites beyond the campus on this basis and concludes that within the bounds of the college reasonably available sites to relocate the development do not exist.
151. It is accepted that only development within the bounds of the campus could bring about the benefits to the agricultural college. Though in sheer principle terms sites for student accommodation development on land at less risk from flooding could likely be identified in the area, as the proposal is linked to facilitating benefits to the college such a scheme would not be appropriate for the development having regards to the advice contained within NPPF paragraph 101.

152. An Exception Test should meet two criteria;
- i) it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
 - ii) a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
153. With regard to the wider sustainability benefits of the development subject to the first test, there is overlap with the VSC Justification with the submitted Exception Test focusing upon the benefits to the improvement to the facilities and higher education provision at the college. Further sustainability benefits including in terms of addressing the need to provide high quality student accommodation and economic benefits from job creation in the construction sector and supply chains are detailed. It is considered that wider sustainability benefits that meet the requirements of the Exception Test have been demonstrated.
154. Regarding the second test and matters of flood risk, the FRA highlights that the site has suffered from flooding in the past with the most recent recorded flood event in 2009. The proposed student accommodation building has been designed to include flood mitigation measures. The finished floor level of the habitable ground floor is to be raised to 38.2m AOD with the lowest floor of the building effectively left vacant and designed so as to resist any flood water penetration. Flood defence barriers are also proposed. To compensate for the loss of flood plain storage as a result of a larger building being constructed on site land to the south is to be excavated.
155. Full and final details regarding surface water disposal have at this stage not been devised. The FRA acknowledges that surface water should be disposed of in accordance with the drainage hierarchy which establishes a preference of i) via infiltration ii) via a watercourse iii) via the sewer. The FRA states that infiltration techniques are unlikely acceptable due to the soil conditions which have low permeability. The FRA therefore states that final surface water disposal is likely to be via the River Wear. Discharge rates would require control and the FRA indicates that an underground attenuation tank would be used for this purpose.
156. Drainage and Coastal Protection Officers have raised no objections to the application. The proposed surface water drainage system and restriction of surface water run-off rates (to 4 litres per second) are considered acceptable in principle.
157. In the event of any approval a condition can be added to resolve the final detailed drainage scheme for the development and resolve the final details of the flood risk mitigation measures such as the barriers and compensatory flood plan storage.
158. The Environment Agency raises no objections to the application subject to the development being implemented in accordance with the mitigation measures contained within the submitted flood risk assessment. Conditions can ensure that such mitigation measures are implemented.
159. Foul water disposal is proposed via the mains sewer and though Northumbrian Water raise no objections in principle it does state that full details with regards to foul and surface water disposal have not been provided within the application. Northumbrian Water requests a condition to resolve final details in the event of an approval.

160. As a result, it is considered that the application has demonstrated that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. The requirements of the Exception Test are therefore considered to be met by the proposal and no objections on flood risk grounds are raised. The application is considered compliant with CDLP Policies U8A, U9 and U10 and part 10 of the NPPF. CDLP Policies U8A, U9 and U10 are considered either fully (U8A) or partially (U9 and U10) consistent with the NPPF and can be attributed weight in the decision making process.

Highway Safety and Accessibility

161. The NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The application is accompanied by a transport statement (TS) and a travel plan (TP). The TS has been amended during the course of the application.

162. The submitted TS includes a site accessibility audit a matter which the submitted TP also addresses. The site is considered accessible to a range of modes of transport. Pedestrian and cycle access along an existing shared footpath cycleway on the adjacent A177 would provide access to Durham City. Main flows are likely to be towards the City Centre and the Durham University campuses and these areas would be accessible for future occupants. The Stockton Road campus for example is approximately 850m from the site via the A177. The nearest bus stops are approximately 250m and 350m from the site and provide a range of services. The site is considered an accessible location for the development. This degree of accessibility and connectivity with Durham City is considered important given the site is physically separated from any settlement which sometimes can result in developments which are residentially occupied being considered isolated and thereby unsustainable.

163. The submitted TS presents the predicted trip generation emerging from the development and anticipates that the majority of trips in peak hours will be pedestrian trips with relatively few vehicular comings and goings from the site.

164. The TS outlines the Council's car and cycle parking requirements for student accommodation and seeks to meet these through a combination of onsite provision and use of a permit system for car parking within the wider Houghall College site. Six parking spaces are proposed on-site with 10 further permit parking passes to be provided. For cycles a total of 52 spaces are to be provided to cater for both occupiers and visitors.

165. The Highway Authority raises no objections to the development essentially agreement with the conclusions of the submitted TS. The site is considered accessible for the development proposal with no significant impacts upon the local highway network.

166. No objections are therefore raised to the development with regards to matters of highway safety/highway issues with the development considered compliant with CDLP Policies T1, T20 and Q2 and Part 4 of the NPPF. CDLP Policy T1 is considered partially consistent with the NPPF and Q2 and T20 fully consistent and can be attributed weight in the decision making process. CDLP Policy T10 regarding parking standards though applicable to the development is considered inconsistent with the NPPF and therefore is attributed no weight.

Residential Amenity

167. The application site benefits from its relative isolation to other surrounding developments beyond the Houghall Campus. As a result there are no neighbouring sites or occupiers beyond the bounds the wider campus that would be directly affected by the presence of the building having regards for instance to privacy and outlook. Mountjoy House is located approximately 280m to the west of the application site and is the closest residential property to the development.
168. Where purpose built student accommodation developments are located within existing residential areas public concerns over the impacts of noise and disturbance are frequently raised. Again as a result of the relative detachment of the development the impacts of the development upon neighbouring occupiers are reduced in comparison.
169. With the proposal creating a total of 222 student beds there remains the potential for significant comings and goings from the site and this would include pedestrian movements for instance passing properties on route to University sites or the city centre. However, it is considered that these movements would add modestly to existing movements in these parts of the City and not be disturbing or harmful.
170. The application is accompanied by a noise report which has been updated during the course of the application. The scope of the report is to consider the implications of existing noise sources upon the occupiers of the development. The principal noise source is identified as traffic on the A177. The submitted noise report concludes that the provision of minimum façade sound insulation would be required for the new build portion of the proposed development whilst a noise limit of 28dB(A) in proposed bedrooms with respects to noise from any mechanical services/plant necessary.
171. Environment, Health and Consumer Protection Officers raise no objections to the methodology or conclusions of the submitted noise report. It should be noted that the comments of Environment, Health and Consumer Protection Officers relate to the potential of the development to cause a statutory nuisance, as defined by the Environmental Protection Act 1990. However, with regard to residential amenity officers concur with their views that objection not be raised to the development on the grounds of the impacts of the noise environment upon future occupiers.
172. So as to reduce the potential for noise and disturbance during the construction phase of the development it is considered that a construction management plan be agreed under condition in the event of any approval. In accordance with the advice of Environment, Health and Consumer Protection Officers this management plan should include a Dust Action Management Plan.
173. No objections are raised to the development on with regards to matters of residential amenity with the application considered compliant with CDLP Policies U5 and U7 and having regards to parts 7 and 11 of the NPPF. CDLP Policies U5 and U7 are considered partially consistent with the NPPF and can be attributed weight in the decision making process.

174. The application is accompanied by an ecological appraisal report, bat survey report and badger report. The presence of protected species is a material consideration, in accordance with Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) and Part 11 of the NPPF. In addition with regards to with regards to European Protected Species (EPS) (which includes bats) under the requirements of The Habitats Regulations it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England. Regulation 9(3) of The Habitat Regulations requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species license from Natural England. This requires an examination of the derogation provisions. However, the need to consider if an EPS licence may be granted only occurs where there would be interference with an EPS.
175. The submitted ecological appraisal report considered the potential for the development to affect a range of species and statutory and locally designated ecological sites. Within this the potential for impacts upon great crested newts (GCNs,) grass snakes, water voles, hedgehogs, brown hare, red squirrel, white clawed crayfish, otters and bird species are considered. With regards to statutory designated ecological sites none are located within 2km of the site. With regards to locally designated sites 8 local wildlife sites are located within 2km of the site the closest being Houghall, Maiden Castle and Little Woods approximately 140m the west.
176. The ecological appraisal report narrows down the potential impacts of the development to impacts upon nesting birds, risk of harm to terrestrial mammals, residual risk of harm to GCNs and reptiles if present at the time of works and risk of dispersal of the invasive species Cotoneaster.
177. In terms of further work, due to the nature of the buildings to be affected by the development and the site settings which could provide foraging opportunities the ecological appraisal report concluded that bat surveying was necessary. Similarly due to existence of records of badgers in the vicinity of the site badger surveying was also considered necessary.
178. The submitted bat survey report highlights that the results of the surveying found no roosts within the buildings surveyed and overall it is considered within the report that there is a low risk of roosts being present. The report does propose mitigation measures, however, including that a checking survey is undertaken prior to demolition works occurring at the site and the provision of bat boxes within retained trees at the site.
179. The submitted badger survey report concludes that whilst no licence (having regards to the protection offered to badgers under the Wildlife and Countryside Act 1981 and the Protection of Badgers Act 1992) will be required to undertake the development works, as a precaution, a checking survey is advised prior to the commencement of works, method statement be produced and “toolbox talk” with staff delivered.
180. Further remaining ecological mitigation measures are proposed within the ecological appraisal report including that vegetation clearance occurs outwith the nesting season unless a checking survey is undertaken prior to works and that any excavations left open overnight include a means of escape for mammals.

181. Ecology officers raise no objections to the submitted report but recommend mitigation measures are implemented. It is considered that the development would not interfere with any EPS with no requirement to consider whether an EPS licence would be granted. Ecology officers raise no objections with regards to the potential for the development to affect any statutory or local designated ecological sites.
182. As a result no objections are raised to the development on ecological and nature conservation grounds with the development considered compliant with CDLP Policies E16 and E18 and Part 11 of the NPPF. CDLP Policy E16 is considered fully consistent with the NPPF and Policy E18 partially consistent and therefore weight to both policies can be attributed in the decision making process.

Other Issues

183. Environment, Health and Consumer Protection (Contaminated Land) raise no objections, however, a contaminated land investigation/remediation condition should be added to any planning permission having regard to CDLP Policies U11 and U12 and Part 11 of the NPPF. CDLP Policies U11 and U12 are considered fully consistent with the NPPF and can be attributed weight in the decision making process.
184. Employability officers request that targeted recruitment and training clauses are included within a S106 legal agreement in the event of approval. It is considered that a condition can ensure these clauses in the event of an approval.
185. Access and Public Rights of Way officers raise no objections. Officers consider that the development would not affect any recorded public rights of way having regards to CDLP Policy R11.
186. Sustainability Officers request further details with regards to how the scheme embeds sustainability and minimizes carbon from construction and operational emissions having regards to CDLP Policy U14 (fully consistent with the NPPF) and NPPF part 10. A condition can be added to ensure that a final embedded sustainability scheme is agreed and implemented.
187. CDLP Policy Q15 seeks to encourage artistic elements in the design and layout of development or seeks a financial contribution in lieu of such provision. In this instance it is considered that finances emerging from the development are more appropriately directed towards ensuring the completion of the Phase 1 development proposals as per the VSC Justification. CDLP Policy Q15 “encourages” rather than requires artistic incorporation into developments. The policy is considered only partly consistent with the NPPF. As a result it is considered that objection not be raised to the absence of artistic elements forming a part of the development proposal.

Whether Very Special Circumstances Exist

188. Whilst accepting that any degree of harm to the Green Belt must be attributed substantial weight in this instance it is considered the level of harm to the Green Belt and degree of impact on openness is relatively limited.
189. The economic and social benefits that would result from the completion of the Phase 1 redevelopment works and the related beneficial impacts upon the education offer at Houghall College are such that it is considered very special circumstances do exist which outweigh the harm to the Green Belt and the siting of the development within the countryside. A S106 legal agreement can ensure that the precise schedule of works to complete the Phase 1 redevelopment are agreed and delivered.

CONCLUSION

190. The development would in part involve inappropriate development in the Green Belt. There is a presumption against such inappropriate development in the Green Belt unless very special circumstances can be demonstrated.
191. It is considered that very special circumstances which permit the development to be acceptable exist and have been demonstrated. The development is therefore considered compliant with NPPF Paragraphs 88 and 89.
192. The proposed development would in part replace existing poor quality accommodation with a new student accommodation building fit for purpose. This purpose built accommodation would be suitable for both Houghall College students and Durham University students with University sites within easy reach of the development. A proportion of the financial receipt of the development would be invested into ensuring that a previously approved redevelopment of the agricultural college is delivered in full rather than in a less comprehensive form currently subject to the construction contract. The comprehensive redevelopment would benefit the agricultural college providing an enhanced offer of facilities at the only agricultural college within the County. The works to complete this previously approved Phase 1 redevelopment would be ensured via a S106 legal agreement.
193. The agricultural, equine and land-based teaching college is a well-established, unique and valuable facility for the whole County and the proposals would support and benefit the local economy by providing both employment and skills development which can contribute to the well-being of the local economy and community.
194. The development itself would result in some direct and indirect economic benefits such as providing construction jobs and creating further jobs within associated supply chains.
195. The development would result in a clear impact upon the openness of the Green Belt and encroachment into the countryside would result from the development. This would be in conflict with CDLP Policies E1, E2, E2A, E7 and H16. The impact of this inappropriate development is by definition harmful to the Green Belt and must be attributed substantial weight in the decision making process. However, mitigating factors do reduce the extent of the impact upon the openness of the Green Belt and in turn limit the potential for harm.
196. The proposals' conflict with the five purposes of the Green Belt is limited to the encroachment into the countryside and to a lesser extent the failure to encourage urban regeneration. The development would necessitate the loss of protected trees and this is a further associated harmful impact of the development.
197. However, on balance it is considered that very special circumstances exist which outweigh the harm to the Green Belt and the associated encroachment into the open countryside and loss of protected trees.
198. The proposal has generated some public interest. Concerns expressed regarding the proposal have been fully taken into account, and carefully balanced against the scheme's wider social, economic and environmental benefits. However, they are not considered to raise issues that justify planning permission being withheld.

199. The application must be referred to the Secretary of State via the National Planning Casework Unit for their consideration as to whether they seek to “call in” the application for their own determination. This referral is necessary due to the proposal constituting inappropriate development in the Green Belt consisting of the provision of a building or buildings where the floor space to be created by the development is 1,000m² or more.

RECOMMENDATION

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

- the referral of the application to the Secretary of State via the National Planning Casework Unit; and in the event of the application not being called in, the Head of Planning be authorised to determine the application.
- the completion of a Section 106 Legal Agreement to secure;
 - i) The agreement and completion of a schedule of works so as to complete the Phase 1 redevelopment of Houghall College

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 and documents:

Plans:

Proposed Roof and Site Plan (Dwg No. SP-001 rev. D)
Proposed Elevations (Dwg No. EL-001 rev. D)
Weardale Proposed Ground Floor (Studios & Management Suite) (Dwg. No. SK(00)105 rev. B)
Weardale Proposed First Floor (Studios) (Dwg. No. SK(00)104 rev. C)
Proposed Ground Floor Plan – Alternative Option (Dwg No. AL_20_001A rev. D)
Proposed First Floor Plan – Alternative Option (Dwg. No. AL_20_006 rev. A)
Proposed Second Floor Plan – Alternative Option (Dwg. No. AL_20_007 rev. A)
Proposed External Lighting Layout (Dwg. No. E-(90)-00-001 rev. 2)
Landscape Site Plan (Dwg. No. N478-ONE—00-XX-DR-L-10001 rev. B)
Tree Protection Plan (ref. 4331 Houghall College)
Tree Protection Plan

Documents:

Arboricultural Method Statement for Houghall Campus, Durham (ref. R01) by E3 Ecology
Bat Survey (ref. RO1) by E3 Ecology
Façade Acoustic Design Strategy 5217.1 C by Apex Acoustics
Transport Statement Final – Revision A by SAJ Transport Consultants
Badger Survey by Fairhurst

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to the City of Durham Local Plan Policies E1, E2, E2A, E6, E7, E10, E14, E15, E16, E18, E21, E22, E23, E24, H16, Q1, Q2, T1, T20, U5, U7, U8a, U9, U10, U11, U12, U14 and Parts 1, 3, 4, 6, 7, 8, 9, 10, 11 and 12 of the NPPF.

3. No development shall take place until a construction management strategy has been submitted to and approved by the Local Planning Authority. Said management strategy shall include but not necessarily be restricted to the following;
- Details and methods of dust suppression which will include a Dust Action Management Plan
 - Details and methods of noise reduction
 - Confirmation that the burning of combustible material shall be prohibited on site
 - Details and methods of reducing the potential for mud on the roads in the vicinity of the site
 - A management plan for the construction vehicle and delivery vehicle movements to and from the site including details of predicted movements any Banksmen and Signallers to be employed
 - Details of parking arrangements/management of construction site staff
 - Details of compound location
 - Details of the site construction hours within which construction activities including any deliveries to and from the site shall be permitted

The construction phase of the development shall be implemented in accordance with the approved construction management strategy.

Reason: In the interests of the residential amenity of neighbouring occupiers having regards to the City of Durham Local Plan Policies U5 and U7 and Part 11 of the NPPF. *Required to be a pre-commencement condition as construction activity mitigation must be agreed prior to the commencement of the works.*

4. No development shall take place until a detailed scheme for the disposal of foul and surface water from the development has been first submitted to and then approved by the Local Planning Authority. The submitted shall accord with the hierarchical approach to surface water disposal. The scheme shall include but not necessarily be restricted to the following;
- Detailed designs of features, infrastructure and any associated works and landscaping
 - Full details of all surface water run-off rates and discharge rates to any watercourse
 - Full details of the management and maintenance proposals/regime

The development shall thereafter be implemented in accordance with the approved scheme. The approved scheme shall managed, maintained and operated in perpetuity.

Reason: To ensure adequate surface water disposal measures for the development in the interests of reducing the risk of flooding having regards to City of Durham Local Plan Policies U8A, U9 and U10 and Part 10 of the NPPF. *Required to be a pre-commencement condition as the final drainage system should form an integral part of the layout of the development.*

5. No development shall take place until precise details of the flood barrier systems and the provision of compensatory flood plain storage as detailed within paragraphs 6.8.1 and 6.8.2 of the submitted "Flood risk and drainage assessment January 2016" have been submitted to and approved by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details and in accordance with the protection to flood levels as detailed within paragraph 6.8.1 of the submitted "Flood risk and drainage assessment January 2016".

Reason: In the interests of reducing the risk of flooding having regards to City of Durham Local Plan Policy U10 and Part 10 of the NPPF. *Required to be a pre-commencement condition as the final flood risk mitigation solutions should form an integral part of the layout of the development.*

6. No development shall take place until a scheme/programme for the provision of targeted recruitment and training opportunities arising as a result of the development has been submitted to and approved by the Local Planning Authority. Such a scheme could include but may not necessarily be restricted to the following;

- Job Opportunities
- Apprenticeship
- Traineeship
- Graduate Internship
- Work Placements

Thereafter the approved scheme/programme shall be implemented.

Reason: In order to maximise the economic and employment opportunity benefits arising from the development having regards to Part 1 of the NPPF. *Required to be pre-commencement as the scheme of targeted recruitment must be determined prior to the commencement of the construction works.*

7. No development other than demolition shall take place until a detailed landscaping scheme has been submitted to and approved by the Local Planning Authority. The landscape scheme shall include the following:

Trees, hedges and shrubs scheduled for retention

Details of hard and soft landscaping including surface materials, planting species, sizes, layout, densities and numbers. The soft landscaping shall include details of a replacement tree planting scheme to compensate for the loss of trees protected by the TPO

Details of planting procedures or specification

Finished topsoil levels and depths

Details of temporary topsoil and subsoil storage provision

Seeded or turf areas, habitat creation areas and details

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc

Trees, hedges and shrubs shall not be removed within five years. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

The approved landscaping scheme shall be carried out in the first available planting season following the completion of the development.

Reason: In the interests of the visual amenity of the area having regards to City of Durham Local Plan Policies E14, E15 and Q5 and Part 11 of the NPPF.

8. No development other than demolition shall take place until full details of all materials to be used in the external construction of the development including details of all fenestration works hereby approved have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter construction shall take place only in full accordance with the approved details.

Reason: In the interests of visual amenity and in the interests of preserving the character of a non-designated heritage asset having regards to City of Durham Local Plan Policies E21 and H16 and parts 7 and 11 of the NPPF.

9. No development other than demolition shall take place until a scheme to deal with any contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following:

Pre-Commencement

(a) A Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

(b) If the Phase 2 assessment identifies any 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.

Completion

(c) 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 City of Durham Local Plan Policies U11 and U10 and NPPF Part 11.

10. No development other than demolition shall take place until a scheme to minimise energy consumption has been submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme and retained so in perpetuity.

Reason: In the interests of sustainable construction and energy conservation having regards to District of Easington Local Plan Policies 1 and 35 and Part 10 of the NPPF.

11. The development hereby approved shall not be occupied until details of all means of enclosure to be erected within the site have been submitted to and approved by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of the character and appearance of the area having regards to City of Durham Local Plan Policies H16 and Q5 and parts 7 and 11 of the NPPF.

12. The development hereby approved shall not be occupied until details of a final student management plan based upon the principles established within the submitted "Student Management Plan" by Jansons has been submitted to and approved by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of ensuring appropriate management of the site in the interests of residential amenity having regards to City of Durham Local Plan Policy H16 and the Interim Student Accommodation.

13. No development shall take place unless in full accordance with the submitted "Façade Acoustic Design Strategy" report 5217.1 version C by Apex Acoustics.

Reason: In the interests of ensuring adequate amenity is provided for the occupiers of the development having regards to City of Durham Local Plan Policy U7 and Part 11 of the NPPF.

14. No development shall take place unless in full accordance with details and mitigation requirements contained within section 8 of the submitted Badger Survey by Fairhurst, section G of the submitted Preliminary Ecological Appraisal by E3 Ecology and section G of the submitted Bat Survey by E3 Ecology.

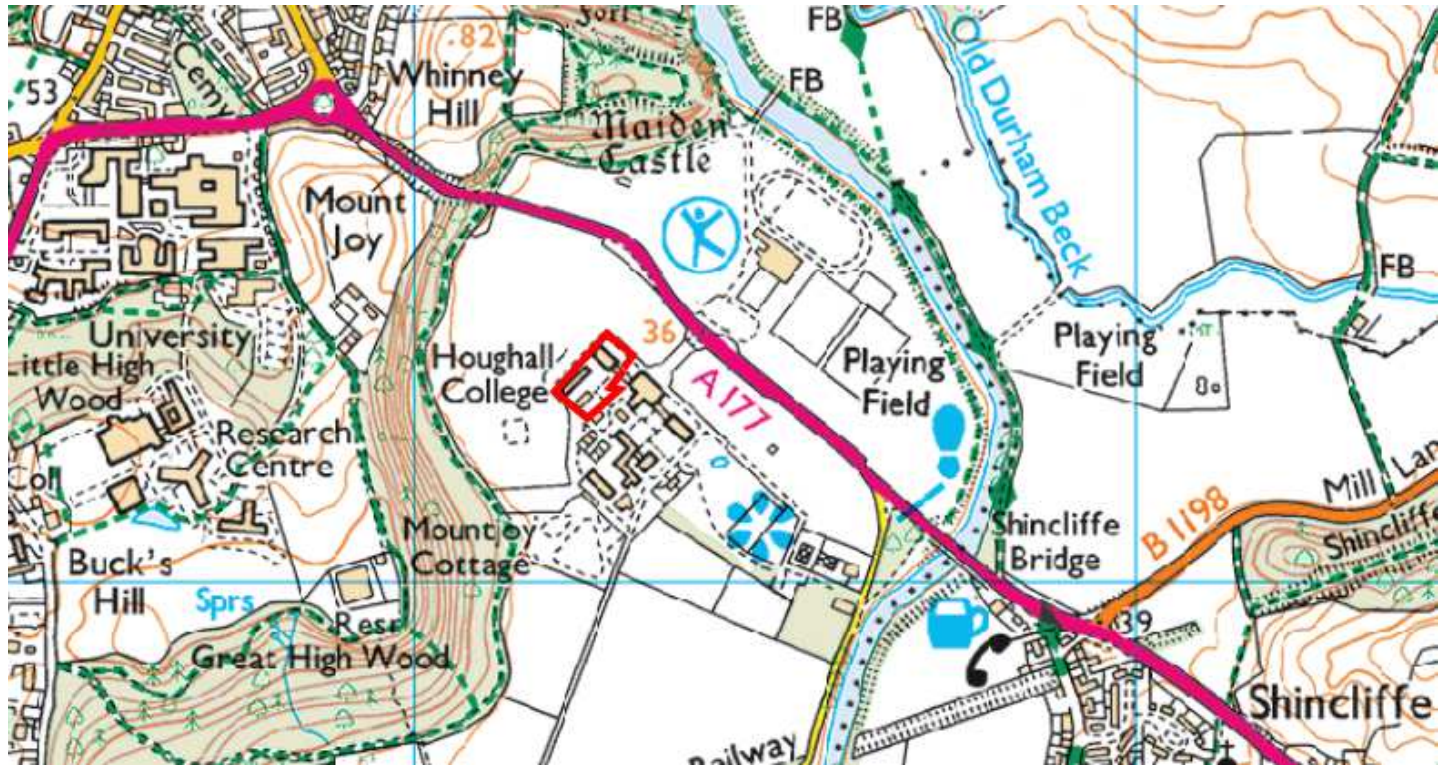
Reason: In the interests of conserving biodiversity having regards to City of Durham Local Plan Policy E16 and part 11 of the NPPF

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this 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) (CC) 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
- City of Durham Local Plan
- The County Durham Plan (Issues and Options)
- Interim Student Accommodation Policy
- Statutory, internal and public consultation responses



Planning Services

Refurbishment of Weardale House to provide 24 student beds, demolition of 2 existing accommodation blocks and erection of purpose built student accommodation block (198 beds) at Weardale House East Durham And Houghall Community College Houghall Durham DH1 3SG (DM/16/00129/FPA)

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Comments

Date July 2016

Scale Not to scale

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/00793/OUT
FULL APPLICATION DESCRIPTION:	Construction of 55 residential dwellings with associated infrastructure, landscaping and engineering works (outline, all matters reserved except access)
NAME OF APPLICANT:	Hellens Group Limited
ADDRESS:	Land to the east of Prospect Place, Commercial Road East, Coxhoe
ELECTORAL DIVISION:	Coxhoe
CASE OFFICER:	Henry Jones Senior Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Background

1. This application has previously been presented to planning committee on 22 September 2015. The application heard at that planning committee proposed that 40% of the dwellings proposed would be affordable homes (22 units). Members resolved to grant planning permission subject to conditions and subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following;
 - i) Provision of 40% affordable housing
 - ii) Revocation of the provisions of S106BA of the Town and Country Planning Act 1990 (as amended)
 - iii) Financial contribution towards school accommodation provision – final figure to be devised at the reserved matters stage.
 - iv) Financial contribution of £4,000 towards the provision of public art
2. The S106 legal agreement has not been completed nor the decision notice issued. The applicant is still seeking planning permission for the development of the 55 dwellings. However, planning permission is now sought on the basis that the 40% proportion of the site previously proposed to constitute affordable homes can, as an alternative, be provided under the “Prince Bishops Homes Model” (PBHM). This model provides the potential for a low cost housing product to be sold to a purchaser and the 40% of the site proposed to be PBHM housing would still be secured by a S106 legal agreement.

The Site:

3. The application site relates to a parcel of land of 1.56ha. The site has previously been used as a limeworks. This was removed in the late 1970's. The site is considered to be Greenfield. The site now comprises a range of grasses and shrubs. The site is generally level, gradually sloping from east to west.
4. Turstable Beck is located to the north of the site and this is bordered by woodland. Coxhoe Ponds Local Wildlife Site (LWS) and Crow Trees Nature Reserve (LNR) border the application site to the east. To the south lies a road whilst to the west is the "The Limes" residential development which is nearing completion and has been in the process of construction since 2008.

The Proposal:

5. Planning permission is sought in outline for the construction of 55 residential dwellings, associated works and landscaping. All detailed matters except access are reserved.
6. Access to the development site is proposed via the road which borders to the south with the access point situated in the south-west corner of the site.
7. Whilst the final detail of the proposed layout and dwellings is at this stage unknown, the indicative layout proposes a range of 2 to 4 bed properties with an area of the site reserved for public open space.
8. The application is accompanied by a biodiversity management plan which proposes management measures to the land within the ownership of the applicant though outwith of the application site which forms part of the Coxhoe Ponds Local Wildlife Site.
9. The application is being reported to Central and East Planning Committee as the development constitutes a major residential development comprising of more than ten dwellings.

PLANNING HISTORY

10. The land to the west of the site (land to the south and north of Commercial Road East), was granted outline planning permission for 80 new dwellings and 2,400m² of employment space in 2008. A reserved matters application was subsequently approved for 80 new dwellings in 2009 which have now been constructed. An application to vary condition 7 on the 2008 outline permission was approved in 2009 which restricted occupancy until a scheme for the treatment of foul flows from the development had been completed. In 2010 planning permission was granted for a substitution of a housetype within the development originally approved in 2008.
11. The employment use approved in the 2008 planning application was not implemented and instead planning permission was granted in 2011 for an additional 47 houses.
12. Further variation of condition applications to permit the substitution of housetypes were approved in 2012 and 2013.

13. In December 2014 an application for the erection of 103 dwellings and associated works on the application site and additional neighbouring land was withdrawn (DM/14/01858/OUT).

PLANNING POLICY

NATIONAL POLICY

14. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). 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. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
15. 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. The following elements of the NPPF are considered relevant to this proposal.
16. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
17. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
18. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities.
19. *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. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.

20. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
21. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
22. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
23. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

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

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

The City of Durham Local Plan (2004) (CDLP)

25. *Policy E7 – Development outside of Settlement Limits.* Development outside of settlement boundaries will only be permitted when it accords with other policies in the plan.
26. *Policy E14 – Protection of Existing Trees and Hedgerows.* Views hedgerows and trees as a valuable resource to be protected when new development is being considered.

27. *Policy E15 – New Trees and Hedgerows.* Tree and hedgerow planting is encouraged.
28. *Policy E16 – Nature Conservation – the Natural Environment.* Is aimed at protecting and enhancing nature conservation assets. Proposals outside protected sites will be required to identify significant nature conservation interests that exist on or adjacent to the site. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts should be identified.
29. *Policy E17 – Sites of Special Scientific Interest.* States that development that would adversely affect a SSSI will only be permitted where the development is of overriding national importance, the development cannot be located elsewhere and remedial and compensatory measures are undertaken.
30. *Policy E18 – Sites of Nature Conservation Importance.* Seeks to safeguard such sites by resisting development which would be detrimental to their nature conservation interest unless it is demonstrated that the benefits from the development would outweigh the nature conservation interest of the site, that there are no appropriate alternative sites for development, that commensurate measures are undertaken to minimise adverse effects and that appropriate habitat creation or enhancement in the vicinity of the site to compensate unavoidable damage undertaken.
31. *Policy E24 – Ancient Monuments and Archaeological Remains.* Ancient monuments and other nationally significant archaeological remains and their settings will be preserved in situ and damage would not be permitted. Archaeological remains of regional and local importance will be protected in situ and where preservation in situ is not justified by, ensuring that in areas where there is evidence that significant archaeological remains exist, or reasons to pre-suppose they exist, pre-application evaluation or archaeological assessment will be required and requiring as a condition of planning permission, that a programme of archaeological investigation, recording and publication has been made.
32. *Policy E26 - Historic Parks and Gardens.* States that development will only be permitted at such locations where it would not detract from the enjoyment, layout, design, character, appearance or setting of the park/garden or result in the loss of its integral features.
33. *Policy H3 – New Housing Development in the Villages.* New housing development comprising windfall development of previously developed land will be permitted within settlement boundaries.
34. *Policy H5 – New Housing in the Countryside.* In the countryside new housing development will be permitted only when it is; required by persons employed in agriculture or forestry where there is a functional need and the enterprise is financially viable, the size is commensurate with the established functional need; adequate provision cannot be made within the settlement/existing buildings and it respects the character of its landscape setting.
35. *Policy H12 – Affordable Housing.* Requires residential schemes of 25 units or more, of 1 ha or more, to provide a proportion of affordable housing where a local need exists.

36. *Policy H12A – Type and Size of Housing.* States that the type and size of dwellings will be monitored with where appropriate negotiation with developers to provide the right housing types and sizes to ensure balance.
37. *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.
38. *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.
39. *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.
40. *Policy T21 – Walker’s Needs.* The Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths are protected; new footpaths are provided; and footpaths are appropriately signed.
41. *Policy R2 – Recreational and Amenity Space in New Residential Developments.* *Seeks to ensure that the provision of open space for outdoor recreation is evenly distributed and is maintained at a level that meets the needs of its population.*
42. *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.
43. *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.
44. *Policy Q6 – Structural Landscaping.* Development located on the edge of settlements or in exposed sites will be required to use peripheral structural landscaping in order to minimise adverse visual impact.
45. *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.
46. *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*
47. *Policy U5 – Pollution Prevention – General.* States that development that may generate pollution will not be granted if that pollution would have an unacceptable adverse impact upon the quality of the local environment, upon the amenity of neighbouring occupiers or would unnecessarily constrain the development of neighbouring land.

48. *Policy U7 – Pollution Prevention.* Development Sensitive to Pollution states that developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.
49. *Policy U8a – Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing of foul and surface water discharge. 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.
50. *Policy U10 - Development in Flood Risk Areas.* States that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless it can be demonstrated that alternative less vulnerable areas are unavailable, that no unacceptable risk would result, that no unacceptable risk would result elsewhere, or that appropriate mitigation measures can be secured.
51. *Policy U11 – Development on Contaminated Land.* Development will only be permitted where the nature and extent of contamination is established, the development would not add to the level of contamination, proposals include remedial measures and that there is no detrimental effect on the environment.
52. *Policy U13 –Development on Unstable Land.* Development will be permitted provided that there is no risk to the intended occupiers from stability or that satisfactory remedial measures can be undertaken.
53. *Policy U14 – Energy Conservation.* States that the use of energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY:

The County Durham Plan

54. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

Coxhoe Neighbourhood Plan

55. In April 2015 Coxhoe was granted approval for designation of a neighbourhood area having regards to the Neighbourhood Planning (General) Regulations 2012. The plan is in a relatively early stage of preparation and as a result there is no policy position within the emerging Neighbourhood Plan against which to assess the application.

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

<http://www.durham.gov.uk/article/7215/Durham-City-Local-Plan> (City of Durham Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

56. *Coxhoe Parish Council* – Express concerns with regards to the cumulative impacts of housing developments in the area and the ability for Coxhoe Primary School to cater for the school places need. Comments are provided regarding the allocation of S106 monies emerging from the development and it is requested that monies are equally divided amongst the primary school, Future Leisure in Coxhoe and the village hall. The upgrade of the bridleway on land owned but not sought for development by the applicant would be welcomed and it is considered appropriate that the land be transferred to the Parish Council.
57. *The Highway Authority* – Raise no objections. The content of the submitted transport assessment is acceptable with the level of traffic generation from the development considered to have no material impact on the surrounding highway network. The access point is suitable. Whilst a matter for the reserved matters stage it is commented that revisions to the layout to improve connectivity should be made. Although a travel plan has been supplied a condition is requested to ensure it is effectively delivered.
58. *Natural England* – Raise no objections with regards to the potential for the development to affect statutory nature conservation sites. General and standing advice is provided with regards to protected species, green infrastructure, locally designated nature conservation sites, landscape and biodiversity enhancements.
59. *Environment Agency* – Raise no objections. Given the proximity of the site to Coxhoe East landfill site it is stated that there potential for migrating gas from the landfill to affect the site. It is therefore considered that a gas risk assessment to determine ground gas conditions is undertaken and a condition could resolve this. General and standing advice is provided with regards to foul water disposal, land contamination and in regards to Great Crested Newts.
60. *Northumbrian Water* – Raise no objections. The development should be implemented in accordance with the submitted flood risk assessment.
61. *Coal Authority* – Confirm that the site is located within the defined Development High Risk Area. The application is accompanied by a coal mining risk assessment and a preliminary site investigation. However, it is considered that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site and condition is recommended to this effect.
62. *Drainage and Coastal Protection* – Raise no objections. Final details of the proposed drainage arrangements for the development should be agreed in accordance with the hierarchy of preference for surface water disposal and the Council's surface water principles. Officers advise that discharge from the development should be restricted to greenfield run-off rates.

INTERNAL CONSULTEE RESPONSES:

63. *Spatial Policy* – Raise no objections. The principle of developing the site as an extension to Coxhoe is in conflict with the existing Local Plan (Policy H3). Policy H3 which establishes a settlement boundary to Coxhoe is considered to be a policy for the supply of housing, and consequently out-of-date as a result of the Court of Appeal judgment in the Richborough case. Policy H3 is also considered to be only partially compliant with the NPPF. In light of this, less weight should be attributed to the proposal's conflict with Policy H3.
64. It is accepted that because the Local Planning Authority cannot currently demonstrate an NPPF compliant Objectively Assessed Need (OAN) for housing, it is not in a position to demonstrate whether a 5-year housing land supply exists. In light of this paragraph 14 of the NPPF is engaged, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate development should be restricted.
65. This application has previously been found to have acceptable visual and landscape impacts, and the ecological implications of the development in respect of both protected species and County Wildlife Site were also found to be within acceptable parameters.
66. This current amendment seeks flexibility to allow the 40% affordable housing provision to be delivered as low cost housing products. Whilst this product type is not currently an NPPF compliant form of affordable housing, the Government has set out proposals to amend the national planning policy definition of affordable housing so that it encompasses a fuller range of products that can support people to access home ownership. The intention is to include low cost market housing as a form of affordable housing. Whilst these proposed changes to the NPPF and the definition of affordable housing is only an intention at the present time, Government consultations have been found to be material considerations in decision making in the past. Therefore in the interests of boosting significantly the supply of housing (like many authorities we have struggled to see sufficient homes built in recent years) the development of this site with this product type will assist with housing delivery and deliver consumer choice and a wider choice of homes.
67. *Design and Conservation* – No objections are raised to the impacts of the development upon heritage assets but consideration should be given to matters of archaeology having regards to the age of the former Steetley Lime works.
68. *Ecology* – Raise no objections to the development subject to the submitted habitat management plan conditioned and site maintained in perpetuity.
69. *Landscape* – The development would have some adverse landscape and visual effects and the extent of which would depend on whether some final modest amendments to the layout could be achieved. Landscaping to ease the transition from the built environment to a rural one is advised.
70. *Landscape (Arboriculture)* – No objections.
71. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. Taking into account the scale of the development and likely vehicular movements as a result there is no requirement for the application to be accompanied by an Air Quality Assessment.

72. *Environment, Health and Consumer Protection (Contamination)* – Raise no objections but due to the fact that the proposed development constitutes a change of use to a more sensitive nature a contaminated land condition should be applied to any approval.
73. *Environment, Health and Consumer Protection (Noise, Dust, Light, Smoke and Odour)* – Raise no objections. The submitted noise assessment is considered appropriate and the mitigation measures proposed should be implemented. Noise from the construction phase could occur and a condition to control such noise is recommended. A condition to control the lighting scheme having regards to proximity to existing property is recommended. A construction management plan to control dust and the potential for smoke is advised. No concerns are raised with regards to odour.
74. *Archaeology* – No objections and no matters of archaeological interest are raised.
75. *Access and Public Rights of Way* – No objections. The proposed contribution to upgrade the Limestone LinX Bridleway is welcomed.
76. *Housing Delivery* – The provision of 40% affordable housing would be in excess of the 20% affordable housing requirement for the area. Affordable housing should be provided on a split of 70% affordable rent and 30% affordable home ownership with a mix of 2, 3 bed and 2 bed bungalows. Details are requested in relation to the percentage discount of the affordable home ownership units. Specifically regarding the PBHM now proposed by the applicant whilst this would add choice to the market in the area it could not be defined as NPPF compliant affordable housing.
77. *School Organisation Manager* – Raise no objections. Based upon the 55 dwellings proposed a financial contribution of £70,230 so as to provide an additional 6 no. primary school places would be necessary.
78. *Sustainability* – Object to the application due to the potential impacts upon ecology and the distance from services, facilities and public transport services.

PUBLIC RESPONSES:

79. The application was advertised within the press, on site and letters were sent to neighbouring properties. A total of 10 letters of representation have been received with a total of 9 objections and 1 letter of support. The matters raised are summarised below. Upon receipt of the amendments to the proposal (as outlined in the Background section of this report) a re-consultation exercise was undertaken to which no further representations have been received.

Principle of the Development

- The need for the housing is questioned with existing properties being slow to sell

Design and Layout

- The development is of too high density.
- Absence of landscape buffer between the proposed development and existing houses.
- The open space design and positioning is considered to be poor.

Residential Amenity

- Loss of privacy from property.
- Harmful impacts of overshadowing from the development.
- Disruption and noise from the construction phase.

Ecology

- Impacts on Great Crested Newts.
- Impacts upon a range of other species within the nature reserve.
- Impacts upon yellow-wort and autumn gentian.

Other issues

- Devaluing of property
- Loss of view from property.
- The site is used for dog walking.
- Understood that the developer of previous phases of The Limes had provide assurances that this land would not be developed.
- Inadequacy of the parking provision and the access arrangements to the site.
- Lack of public access to the wildlife site adjacent.

80. *The Durham Constabulary Architectural Liaison Officer* – The crime risk assessment for the development is considered low. The only concern within the layout is highlighted as being the area of open space which has the potential to generate nuisance complaints. Approaches to landscaping for the open space such as defensive planting could reduce the potential for such nuisance. General advice with regards to the principles of “Secured by Design” is provided.
81. *The Campaign to Protect Rural England* – Raise objections. Reference is made to the Planning Inspector’s Interim Report on the County Durham Plan and that the objective assessment of housing need is too high and planned growth is not realistic. It is considered that the Inspector left open whether Coxhoe and Parkhill could accommodate more development. Reference is made to High Court judgements considered applicable to the application in regards to 5 year housing land supply and the weight to be attached to Local Plan Policies. It is also considered that weight can be attributed to emerging County Durham Plan Policies which have not been identified as unsound by the Planning Inspector with particular reference to Policies 15 and 35.

APPLICANTS STATEMENT:

82. Hellens Group have already successfully delivered much new housing for the village of Coxhoe brought forward at the Limes Development which represented a very successful scheme. That development brought forward a contaminated vacant site with much needed market and affordable housing including bungalows for which there is an overwhelming demand locally. They have a track record of delivering quality sustainable development.
83. The current application site would further remediate the land and make a logical and moderate addition of new housing for the village and meet with a high demand recognised by Durham County Council Choice Based Letting Service for affordable housing in the village, including further bungalows.
84. Following detailed pre-application discussions with the Council an application was submitted and subsequently amended and reduced in scale to seek to address ecological and landscape concerns. Following discussions with the Council a further revised application was submitted which has now fully addressed all technical issues and previous objections.

85. The scheme will deliver much needed affordable housing which represents 40% of the housing proposed. We are working with Prince Bishop Homes to deliver the affordable element via their popular Rent to Buy Model which they are currently delivering at another site in Coxhoe. The scheme will also deliver much needed new family homes that will provide housing at an affordable price in a sustainable location with benefits to the local community through employment during construction and a boost to the local economy from increased spending in local services.
86. In summary, we consider that the scheme will bring overall benefit to the village, in particular much needed housing in a sustainable location and there are significant benefits of the scheme, particularly the delivery of affordable housing that should be given substantial weight in the determination of the application.

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

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

87. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, landscape, visual impact and layout, residential amenity, viability and planning obligations, ecology, highway safety, heritage impact and matters of flood risk and drainage.

Principle of Development

The Development Plan

88. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains a statutory component of the development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that greater weight may be given to local plan policies depending on their degree of consistency with the NPPF.
89. NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. However, notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired. Furthermore NPPF Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites, measured against full objectively assessed needs or up to date housing requirement.

90. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - ii) specific policies in this Framework indicate development should be restricted.
91. The National Planning Policy Framework (NPPF) outlines the Government's objective of ensuring that the planning system delivers a flexible, responsive supply of land. Paragraph 47 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.
92. Paragraph 49 of the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 14 of the NPPF is engaged and an application is to be assessed in this context.

Five Year Housing Land Supply

93. The housing trajectory associated with the withdrawn County Durham Plan (CDP) is no longer relevant and similarly the CDP Objectively Assessed Need (OAN - for housing) figure no longer exists. This raises the issue of what is the requirement against which the supply is to be measured in order to calculate whether or not a 5 year housing supply exists.
94. Recently the Council has sought to accord with advice in the Planning Practice Guidance regarding OAN (PPG Revision date: 06 03 2014 Paragraph: 031 Reference ID: 3-031-20140306): *'Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints. Where there is no robust recent assessment of full housing needs, the household projections published by the Department for Communities and Local Government should be used as the starting point, but the weight given to these should take account of the fact that they have not been tested (which could evidence a different housing requirement to the projection, for example because past events that affect the projection are unlikely to occur again or because of market signals) or moderated against relevant constraints (for example environmental or infrastructure).'*"

95. The household projections published by the DCLG give a starting point for a housing requirement of 1,308 dwellings per annum. Applying the appropriate under delivery and 20% buffer against the requirement derived from the DCLG household projections the Council has been able to demonstrate a supply of over 5 years of deliverable housing land. It has been recognised, however, that the DCLG requirement has not represented a full OAN as it does not take into account market signals nor has it been publicly tested. However, the exercise has served as a “proxy”, providing a context to quantify the supply position and inform on decision taking on recent housing applications.
96. On 15 June 2016 a report into the County Durham Plan Issues and Options (the first stage of the re-emerging plan process) was presented at Cabinet. The report was approved at Cabinet and consultation on the CDP Issues and Options commenced on 24 June. In relation to housing, the Issues and Options present three alternative assessments of housing needs, each based on average net completions up to 2033 (the end of the CDP plan period). The three alternatives are:
- 1,533 houses per year (29,127 houses by 2033)
 - 1,629 houses per year (30,951 houses by 2033)
 - 1,717 houses per year (32,623 houses by 2033)
97. Set against the lowest figure the Council has been able to demonstrate a supply of over 5 years of deliverable housing land, against the middle figure around about 5 years’ worth supply and against the highest figure the Council is short of 5 years, though not significantly so at around 4 and a half years of supply.
98. Again none of the three scenarios within the Issues and Options (nor the figure derived from the DCLG household projections) have been publicly tested. However, it does serve to demonstrate that set against varying potential figures, one of which will be identified as OAN following consultation in the Preferred Option Stage Local Plan, the Council has a robust supply of housing which even in a worst case scenario is not significantly short of 5 years. Accordingly, it is considered that less weight should be afforded to the benefits of delivering new housing than would otherwise be the case if a less healthy land supply position applied. Nevertheless, the presumption in favour of sustainable development (NPPF Paragraph 14) is engaged, as the Council does not have a five-year supply in the terms of the NPPF requirements and additionally the local plan may be out of date for other reasons, as discussed below, and will only be rebutted where a proposal would result in adverse impacts that would significantly and demonstrably outweigh the benefits, both in the form of a contribution to housing supply and any other benefits, or if specific policies in the NPPF indicate development should be restricted.

Assessment having regards to Development Plan Policies

99. The application site lies adjacent to but outside of any settlement boundary as identified by CDLP Policies E7 and H3. The direction of Policy H3 is that housing may only be approved where it lies inside of the settlement boundary, to help to contain settlements and prevent sprawl into the surrounding countryside. Additionally, CDLP Policy H5 establishes a general presumption against allowing housing development beyond a settlement boundary unless it is required to fulfil an employment role. The proposal, seeking a residential estate beyond the settlement boundary of Coxhoe is therefore in conflict with CDLP Policies E7, H3 and H5.

100. Consistent with recent case law, CDLP Policies E7, H3 and H5 are considered to be policies which restrict the location where new housing may be developed and are therefore policies for the supply of housing. Furthermore, given the age of the CDLP and the housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date assessment of need. Having regards to the advice contained at Paragraphs 49, 211 and 215 of the NPPF, CDLP Policies E7, H3 and H5 in relation to housing land supply must now be considered out-of-date for the purposes of Paragraph 14 of the NPPF.
101. The recent Court of Appeal judgment in the Richborough case emphasises that policies in Paragraphs 14 and 49 of the NPPF do not make “out of date” policies for the supply of housing irrelevant in the determination of a planning application or appeal. Nor do they prescribe how much weight should be given to such policies in the decision; this being a matter for the decision-maker, having regard to the advice in Paragraph 215 of the NPPF.
102. Though policies for the supply of housing which restrict the location of housing, CDLP Policies E7, H3 and H5 each hold resonance with the NPPF. Policy E7 has a remit of protection of the countryside which is consistent with NPPF Paragraph 17 which recognises the intrinsic character and beauty of the countryside and seeks to encourage the re-use of previously developed land. Policy E7 is considered fully consistent with the NPPF. Policy H3 also seeks to encourage development on previously developed land and seeks to direct housing to settlements best suited to accommodate the growth which is consistent with advice contained within paragraph 17 which seeks to focus significant development in locations which are or can be made sustainable. However, Policy H3 stringently restricts development on greenfield land within settlement boundaries and the extent of this restrictive nature is considered out of step with the NPPF. CDLP Policy H3 is therefore only partially consistent with the NPPF. CDLP Policy H5 seeks to restrict new housing in the countryside unless certain exceptional circumstances apply and some consistency with NPPF paragraph 55 applies. However, Policy H5 is also considered only partially consistent with the NPPF as it does not allow for the full range of circumstances set out in NPPF paragraph 55. In addition, paragraph 55 applies only to isolated residential development rather than that which is within the countryside by reason of being beyond a settlement boundary.
103. The remaining policies within the CDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development.
104. Policies for the supply of housing within the CDLP are out-of-date. As a result the acceptability of the development rests on whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.

Neighbourhood Plans

105. Coxhoe does have an emerging Neighbourhood Plan, however, this is at an early stage in development and not at the submission stage which is the stage at which the PPG advises prematurity is more likely an issue to be considered.

Locational Sustainability of the Site

106. The County Durham Settlement Study is an evidence based document in support of the CDP which assessed the services, facilities and transport modes of settlements so as to inform the formation of a settlement hierarchy to establish where new development such as housing, employment and community facilities should be located. This Settlement Study identifies Coxhoe as a “smaller town/larger village” and as a result within the second tier of settlements behind main towns such as Durham, Consett and Bishop Auckland. Coxhoe is considered to have a range of services and facilities that in principle can support the addition of a further 55 dwellings.
107. The site is considered to be within reasonable access to public transport with bus stops located within 400m of the site. Some businesses and retail units are located on the nearest sections of Commercial Road East and are also located within 400m of the site. The main village centre is around an 800m walking distance from the site. Coxhoe Primary School which is located at the opposite end of Coxhoe is farther from the site at around a 1.7km walking distance. Therefore whilst access to a full range of services and facilities is not entirely convenient it is considered that the location of the site is sustainable.
108. The School Organisation Manager has advised that based upon existed committed developments in the Coxhoe area, planned extensions to Coxhoe Primary School, school capacity and the number of pupils that the development would likely yield a financial contribution of £70,230 so as to provide an additional 6 no. primary school places would be necessary. This is based upon the indicative site layout of up to 55 dwellings. This contribution towards school classroom accommodation would be ensured via the S106 legal agreement and would establish the final contribution requirement once the layout is precisely established at the reserved matters stage and the final number of dwellings known.
109. The concerns of Sustainability officers are acknowledged, however, it is considered that the proposed development would form an extension to one of the smaller towns/larger villages within the County with reasonable accessibility to services, facilities and transport links. No objections are therefore raised to the locational sustainability of the site.

Landscape, Visual Impact and Layout

110. The proposal would result in the development of a parcel of land on the edge of the settlement and as a result a degree of incursion into the countryside would result. NPPF Paragraph 17 recognises the intrinsic character and beauty of the countryside Policy E7 seeks to protect countryside as a finite resource, noting that landscape character is highly valued and worthy of protection in its own right.
111. The development has reduced in scale from the previously proposed development under application DM/14/01858/OUT and in turn the magnitude of visual and landscape impacts have also reduced.
112. The application is accompanied by a landscape and visual impact assessment (LVIA) and this considers the impact of the development during both the construction and operational phases and considers a range of landscape and visual impacts including upon landscape character areas, designated landscapes and settlements. The LVIA concludes that the overall landscape and visual impacts of the proposed development would not be significant within the area studied. The LVIA considers that impacts upon the range of landscape and visual receptors considered within the study would range from either no adverse impacts to moderate adverse impact.

113. Similarly, Landscape officers conclude that the development would have some adverse landscape and visual effects and the extent of which would depend on whether some final modest amendments to the layout could be achieved and landscaping provided to ease the transition from the built environment to a rural one is advised. At this outline stage the final layout and landscaping proposals for the development are not known.
114. It is considered that the scale of the development would not result in an excessive or unacceptable sprawl into the countryside or significantly harmful landscape impact. The degree to which the development would reduce the existing green chain of open sites which stretch up to Quarrington Hill would be reduced from the previously proposed scheme.
115. With the application being in outline with the only detailed matter included being means of access the precise layout and final appearance of the development is not being sought for approval. The indicative layout proposes two main estate roads, one on an east-west axis and a second on a north-south axis around which the dwellings would be arranged. An area of public open space is indicatively identified in a northern section of the site. At this stage the precise appearance and scale of the dwellings are not known.
116. It is acknowledged that the Highway Authority raise a point that they would expect improvements in elements of the layout and connectivity of the site whilst Landscape officers advise on final modest amendments to the layout and provision of landscaping to ease the transition from the built environment to a rural one is advised.
117. Public objection to the development raises objection on the grounds of the density, absence of a landscape buffer between the proposed development and existing housing at The Limes estate and the open space design and positioning. Ultimately at this stage the final layout, landscaping and appearance of the development is not known and detailed consideration on these matters would be made at the reserved matters stage. However, it is considered that the site in principle can cater for the quantum of development proposed.
118. Whilst the development would result in encroachment in the countryside beyond the existing built form of Coxhoe any landscape harm resultant would be limited and furthermore any adverse landscape and visual impacts must be weighed against identified benefits of the development, a balancing exercise that will be undertaken in this report's conclusion having regard to NPPF Paragraph 14.
119. Whilst an area of public open space is shown on the indicative layout and this would provide an area of open space which meets the requirements of CDLP Policy R2, this policy is not fully consistent with the NPPF as the standards which informed the policy are no longer up to date and have been updated through the Open Space Needs Assessment (OSNA). The OSNA provides advice with regards to what forms of open space a particular residential development should provide either on-site or off-site and provides a methodology for calculating financial contributions under a S106 legal agreement. The OSNA also provides details on adequacy of open space provision by area. The OSNA shows that the Coxhoe Electoral Division has an under-supply of parks and gardens, playspace and allotments. It is acknowledged that at this stage the layout is indicative the and the final open space provision would be resolved at the reserved matters stage, however, on the basis of the indicative layout it is considered likely that final open space provision would not meet the standards established within the OSNA and this is a factor to consider in the planning balance.

120. Otherwise In terms of the layout, appearance and landscaping works the development itself it is considered, subject to the final design approach to be resolved at the reserved matters stage, acceptable and compliant with CDLP Policies E14, E15, Q1, Q2, Q5 and Q6 and having regards to Parts 7 and 11 of the NPPF. CDLP Policies E14, E15, Q1, Q2, Q5 and Q6 are considered fully consistent with the NPPF and can therefore be attributed weight in the decision making process.

Residential Amenity

121. The site is located to the south west of the former Coxhoe Quarry and to the north east of the Joint Stocks Quarry and Landfill site where ongoing capping and restoration works are to be undertaken. It is located directly to the north of Commercial Road East which serves as a route to the household recycling centre, as well Joint Stocks Quarry and Landfill site. Given the use of this road by heavy vehicles and potential for other noise impacts in the locality of the site, a noise assessment has been submitted in support of the application.

122. The noise assessment identified the requirement to implement noise attenuation measures, by means of the provision of acoustic fencing to the rear of proposed properties fronting onto Commercial Road East, as well as ventilation and fenestration requirements. Environment, Health and Consumer Protection officers have indicated that implementation of these measures would enable the residential amenity of residential properties to be safeguarded. These requirements could be ensured by planning condition. Environment, Health and Consumer Protection Officers have raised no objections to the submitted noise assessment or development. It is considered that future residential occupiers would not be significantly impacted on by any nearby industrial or commercial properties or operations, including the operation of the recycling centre and landfill site.

123. Environment, Health and Consumer Protection Officers do consider that impacts from noise, dust and smoke could potentially occur during the construction phase. A condition to control the potential for such impacts can be added to an approval.

124. Additionally, Environment, Health and Consumer Management Officers raise no objections with regards to matters of air quality with no requirement for the submission of an air quality assessment.

125. Only indicative details are provided regarding the layout of the development. As a result a detailed assessment of the separation between properties both within the development and to existing adjacent properties would be made at the reserved matters stage. However, it is considered that in principle, the residential development could be accommodated on the site without unreasonably impacting upon the level of residential amenity that both existing residents currently enjoy and future occupiers require having regards to the requirements of CDLP Policies H13 and Q8.

126. Given the proximity of the site to Coxhoe East landfill site there is the potential for migrating gas from the landfill to affect the site and this is raised within the comments from the Environment Agency. It is therefore considered that a gas risk assessment to determine ground gas conditions is undertaken to investigate the risk and where necessary propose appropriate mitigation measures and a condition can be added to any approval. With regards to other potential sources of contamination Environment, Health and Consumer Protection Officers have raised no objections, however, it is considered that a condition to investigate the potential for contamination and the need for mitigation measures can be added to any approval.

127. Officers raise no objections to the development on the grounds of any adverse impact upon the amenity of neighbouring occupiers or land users. The development is considered to result in no unacceptable levels of pollution. The development is considered compliant with CDLP Policies H13, Q8, U5, U7 and U11 and Parts 8 and 11 of the NPPF. CDLP Policy U11 is considered fully consistent with the NPPF and Policies H13, Q8, U5 and U7 partially consistent with the NPPF and can be attributed weight in the decision making process.

Viability and Planning Obligations

128. As discussed within the “Background” section to this report, planning committee has previously considered this application on 22 September 2015. The application is being presented to committee for a second time due to a proposed amendment to the affordable housing offer and therefore an amendment to the proposed planning obligations.
129. In order to widen the choice of high quality homes and widen opportunities for home ownership, paragraph 50 of the NPPF encourages the provision of affordable housing based on evidenced need. Policy H12 of the CDLP requires a fair and proportionate level of affordable housing on sites over 1ha or 25 dwellings, and Policy H12A requires proposed housing to be of an appropriate type and size.
130. Policy H12 is considered to be only partially compliant with the NPPF. It is consistent with the overall objectives of NPPF, in that paragraphs 47, 50 and 158 of the NPPF require an element of affordable housing to be provided on housing sites, based upon an up to date evidence base. Consequently, the unspecified target of a “fair and reasonable” amount specified by Policy H12 should instead be replaced by an evidence based figure.
131. The County Durham Strategic Housing Market Assessment (SHMA) update report was completed in June 2016 and supplies an evidence base for affordable housing requirements across the Central Delivery Area in which the site falls. A 20% affordable housing requirement applies to the Central Delivery Area.
132. The application as originally presented to committee proposed that 22 of the 55 dwellings would be affordable units which equates to 40%. This is an affordable housing contribution that would therefore be in excess of the SHMA requirements. The applicant considers that there is “a pent up demand” for affordable housing and therefore proposed an increased provision as a benefit of the development to be taken into account in the planning balance. However, the application also sought to demonstrate that the provision of affordable housing would be unviable without grant funding.
133. The application states that through receipt of grant via the Homes and Communities Agency (HCA) under their Affordable Homes Programme the affordable housing proposed can be delivered.
134. In order to acquire the grant from the HCA the applicant, within a separate process from obtaining planning permission, must demonstrate to the HCA that the development is unviable in order to acquire the grant. In general the HCA look unfavourably upon any applications for grant whereby the related planning permission includes a condition or S106 legal agreement to ensure the provision of the affordable housing. However, even in those circumstances the HCA will still consider an application for grant funding but the application must be considered at a national board and the applicant would have to demonstrate the additional benefits that the scheme would bring.

135. With regards to the viability of the development the applicant has previously submitted development appraisals to demonstrate the various costs and revenues of the development. These appraisals have been scrutinised with the benefit of advice from the Council's Valuation officers. Several development appraisals have been submitted so as to demonstrate the viability of the development with and without affordable housing and with adjustments to the inputs in line with requests from officers. This is to ensure that revenues from sales prices and costs associated with the development appear to officers as accurate as is possible. As summarised within the committee report from September 2015 officers concluded that based upon the viability appraisals the development would be unable to provide the affordable housing and remain viable.
136. Subject to availability the applicant can apply to the HCA, demonstrating a viability argument in order to obtain an HCA grant in order to deliver the 40% affordable housing.
137. Within the amended proposals now being reported to planning committee the applicant is suggesting an alternative to the affordable housing provision deliverable via HCA grant. This alternative, would entail that 40% of the site be provided under the "Prince Bishops Homes Model" (PBHM). The applicant considers that this is an alternative affordable housing produce.
138. The NPPF defines affordable housing within Annex 2. Essentially the NPPF identifies three forms of affordable housing, social rented, affordable rented and intermediate housing. Key to a housing product meeting the definition of affordable housing is that the product should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.
139. In summary the PBHM involves the following:
- i) The PBHM dwelling is valued
 - ii) The PBHM is let at market levels
 - iii) Upon the fourth anniversary of the tenancy the property can be valued again with any uplift from the first valuation calculated
 - iv) The customer then has the option to acquire the dwelling at a price which discounts 50% of any uplift in the value of the dwelling (subject to criteria)
 - v) The PBHM then seeks to utilise sales proceeds back into the delivery of further PBHM homes
140. In conjunction with the Council's Housing Delivery officers consideration has been given to whether the PBHM is an NPPF compliant affordable housing product. The justifications submitted by the applicant including an enclosed opinion from a legal practice have been considered.
141. Officers conclude that PBHM is not a NPPF compliant affordable housing product. The product would not remain at an affordable price for future eligible households as once sold, there would be no control on the product remaining affordable in perpetuity for future eligible households. The subsidy would not be recycled as there would be no control that the subsidy would be recycled into alternative affordable housing provision (though it is acknowledged that the applicant states that proceeds from sales would go back into the delivery of further PBHM homes).
142. As a result it is considered that the weight to be attributed to the benefit of the site delivering 40% PBMH is less than if it would deliver 40% NPPF compliant affordable housing, for instance through the use of an HCA grant.

143. Nevertheless it is still accepted that through the provision of the PBHM homes the development would be providing a wider choice of homes and widen opportunities for home ownership. In that sense the PBHM accords with the advice contained within NPPF paragraph 50. Therefore if the development was delivered with 40% PBHM homes it is still considered that this would be a benefit due to widening the opportunity for home ownership to potential purchasers but it would not be a benefit on par with the provision 40% NPPF compliant affordable housing. The planning balance of the benefits and adverse impacts of the development is concluded elsewhere in this report.
144. The applicant still proposes that the PBHM housing would be ensured via a S106 legal agreement as an alternative to the NPPF complaint affordable homes which would also be covered by the legal agreement should they remain deliverable.
145. Reviewed against the CIL regulations and NPPF paragraph 204 the proposed amendment to the S106 commitments to ensure the provision of the 40% PBHM homes is considered necessary to make the development acceptable as it forms part of the benefits of the development to be considered in the planning balance, a benefit to be weighed against the adverse impacts of the encroachment into the countryside and associated landscape harm and a benefit to be weighed in the balance if the NPPF complaint affordable housing cannot come into fruition. This S106 obligation is considered fairly and reasonably related in scale and kind to the development.
146. The September committee resolution referenced a further clause within the S106 legal agreement to be included whereby the applicant was required to waive their right to apply to remove the affordable housing obligations via a S106BA application. This is due to the Growth and Infrastructure Act inserting Section 106BA, BB and BC into the 1990 Town and Country Planning Act. These sections introduced an application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing with only the matter of viability be assessed. However, these provisions were repealed at the end of April 2016 and therefore there is no need for a clause within any S106 legal agreement requiring the applicant to waive their right in this regard.

Ecology

147. Coxhoe Ponds Local Wildlife Site (LWS) and Crow Trees Nature Reserve (LNR) border the application site to the east. Quarrington Hill and Coxhoe Bank Plantation LWS lies approximately 175m to the south of the application site. Quarrington Hill Grasslands Site of Special Scientific Interest (SSSI) lies approximately 1km from the site and Raisby Hill Grasslands SSSI 1.4km south east of the site. Cassop Vale SSSI and NNR are approximately 3km north of the site.
148. Natural England raises no objections with regards to the potential for the development to affect statutorily designated sites.
149. The previously withdrawn application site for 103 dwellings (ref DM/14/01858/OUT) was in part located within the Coxhoe Ponds LWS and as a result of the loss of this locally designated ecological site attempts to mitigate and compensate for the losses were proposed. This involved the active management of land adjacent and nearby to the site.
150. The reduction in the scale of the development now proposed under this application has resulted in the entirety of the application site being located outwith of Coxhoe Ponds LWS. With no loss of the LWS now occurring no compensatory measures in this regard are necessary.

151. The application is accompanied by a biodiversity management plan which proposes management measures to the land within the ownership of the applicant though outwith of the application site which forms part of the Coxhoe Ponds LWS. The management proposals which are provided in greater detail within the submitted management plan are broadly divided into a grassland management area, woodland, scrub and pond management area and a stream management area. This management plan is an update on previously devised management plans the implementation of which has been a requirement of previously approved development at The Limes development to the west. Public objection includes comment that there is limited access to the LWS, however, encouraging too greater public presence within ecological sites can damage habitat.
152. Ecological submissions identify eleven ponds and three small scrapes are located to the east of the site. Surveys undertaken recorded the presence of Great Crested Newts (GCNs) within four of the ponds. Whilst none of these ponds are located within the bounds of the application site, the site is within close enough proximity that it provides terrestrial habitat for the GCNs.
153. The presence of protected species such as great crested newts is a material consideration, in accordance with Circular 06/05 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System) and Part 11 of the NPPF. In addition with regards to European Protected Species (EPS) under the requirements of The Habitats Regulations it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England. Regulation 9(3) of The Habitat Regulations requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species license from Natural England. This requires an examination of the derogation provisions. In this instance there will be a requirement to trap-out any GCNs within the site and this will require a European Protected Species (EPS) Licence from Natural England.
154. The LPA must discharge its duty under Regulation 9(5) and also be satisfied that these three tests are met when deciding whether to grant planning permission for a development which could harm an EPS. The Local Planning Authority should be satisfied that; i) the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment ii) there must be no satisfactory alternative; and iii) favourable conservation status of the species must be maintained.
155. With regards to the first test, the development is meeting no purposes of public health/safety or safety. The development does seek, however, to make a contribution towards the maintenance of housing land supply including 40% affordable housing or a low cost housing product (the PBHM) and these are social and economic benefits of the development.
156. With regards to the second test it would be a satisfactory alternative for the development to not occur at this site which would preserve the GCN habitat.
157. The ecological submissions proposed mitigation and compensatory habitat management and it is considered that the favourable conservation status of the species would be maintained.

158. It is concluded that it remains likely Natural England would grant an EPS licence. Ecology officers have raised no objections to the development provided that the habitat management proposals submitted as ensured in perpetuity and a condition can be added to any planning permission. As a result officers raise no objections to the development on the grounds of impacts upon ecological assets and the development is considered compliant with CDLP Policies E16, E17 and E18 and Part 11 of the NPPF. CDLP Policy E16 is considered fully consistent with the NPPF and policies E17 and E18 are partially consistent with the NPPF and can be attributed weight in the decision making process.

Highway Safety

159. The application is accompanied by a transport assessment (TA) which seeks to inform on and assess the key highways related implications of the development. The TA assesses matters such as the accessibility of the development; trip generation and traffic assignment; future year flows; operational assessment of junctions; highway safety; committed developments.
160. Vehicular access to the development is sought via a single point in the south-west corner of the site where the site meets the existing B6291. No off-site highway works are proposed with the submitted TA concluding none would be necessary to mitigate the impacts of the development.
161. The Highway Authority has raised no objections to the development. The submitted TA has been assessed and it is accepted that the level of traffic generation will not have a material impact on the surrounding highway network and a suitable access to the site can be formed.
162. As a result no objections are raised regarding matters of highway safety with the development considered compliant with CDLP Policies T1 and T21 and Part 4 of the NPPF. CDLP Policy T21 is considered fully consistent with the NPPF and Policy T1 partially compliant with the NPPF and can be attributed weight in the decision making process. Policy T10 regarding parking provision is not NPPF compliant and is attributed no weight as a result.

Heritage Impact

163. The application is accompanied by a heritage statement which considers the potential for archaeological deposits below ground and the impact of the development upon designated and non-designated heritage assets within 1.5km of the site. The heritage statement considers that no impacts would occur as a result of the development. Modern activity on the site as a result of the lime works would have removed the potential for earlier (prehistoric/Roman) deposits. A locally designated historic parkland (Coxhoe Hall Park) is located approximately 200m to the east of the site. A modern plantation screens the parkland the site of Coxhoe Hall and associated grounds from the development and no impacts are considered to result.
164. Design and Conservation officers raise no objections with regards to the potential impact upon heritage assets although the need to consider the potential for archaeological assets is referenced. Archaeology Officers have considered such matters and raise no objections. As a result no objections are raised with regards to the heritage impact of the development with the proposal considered compliant with CDLP Policies E24 and E26 and Part 12 of the NPPF. CDLP Policies E24 and E26 are fully consistent with the NPPF and can be attributed weight in the decision making process.

Flood Risk and Drainage

165. The application is accompanied by a floor risk assessment (FRA) which outlines the potential for the site to be subject to flooding and considers in principle foul and surface water disposal from the development.
166. The application site is located within flood risk zone one, essentially the land least prone to fluvial flooding. The submitted FRA proposes that foul waters are disposed of to the mains sewer and Northumbrian Water have raised no objections to this. With regards to surface waters the FRA proposes that these would discharge to Tursdale Beck which is situated to the north of the application site with discharge rates controlled to greenfield run-off rates. Drainage and Coastal Protection Officers have stated that final details of the proposed drainage arrangements for the development should be agreed in accordance with the hierarchy of preference for surface water disposal and the Council's surface water principles. This would require a demonstration that if surface water discharge to Tursdale Beck is to be the final solution then infiltration techniques cannot be utilised which would be sequentially preferable having regards to the above mentioned hierarchy. It is considered that a condition can be added to any planning permission to agree final drainage proposals.
167. As a result officers raise no objections to the development having regards to CDLP Policies U8a and U10 and Part 10 of the NPPF. CDLP Policy U8a is considered fully consistent with the NPPF and Policy U10 partially consistent and can therefore be attributed weight in the decision making process.

Other Issues

168. The application site is accompanied by a low or zero carbon technology feasibility study. This recommends that the use of photovoltaic panels would be the most appropriate means of reducing carbon emissions. A condition to resolve final proposals of energy reduction for the scheme can be added to any approval having regards to CDLP Policy U14 and Part 10 of the NPPF. CDLP Policy U14 is considered fully consistent with the NPPF and can be attributed weight in the decision making process.
169. The Coal Authority has confirmed that the site is located within the defined Development High Risk Area. The application is accompanied by a coal mining risk assessment and a preliminary site investigation. However, it is considered that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. A condition can be added to any approval in this respect having regard to CDLP Policy U13 and Part 11 of the NPPF. CDLP Policy U13 is considered fully consistent with the NPPF and can be attributed weight in the decision making process.
170. No impacts upon formally designated public rights of way would result from the development. The applicant has stated that they would implement improvement works to the Limestone LinX pedestrian and cycle routes and improvements would be welcomed by Access and Rights of Way Officers.
171. Public objections to the development include those regarding the potential for devaluing of property values and the loss of a view from property however neither of these are material planning considerations to be attributed weight.

172. Limited weight can be attributed to the public objection that the site in its undeveloped form can be utilised for dog walking and that the development would impinge upon this.

Planning Balance

173. The acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF. No specific policies within the NPPF are considered to indicate development should be restricted and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

Benefits

174. The development would assist in maintaining housing land supply at a time when the Council cannot demonstrate a 5 year housing supply against an objectively assessed need and policies for the supply of housing are out of date. In the light of the supply position against the DCLG projections and scenarios within the CDP Issues and Options this benefit is considered more limited, however.

175. The development proposes that either;
i) 40% affordable housing would be provided or;
ii) 40% PBHM homes would be provided

176. In regards to i) 40% affordable housing would provide a significant contribution towards affordable housing need, a need which is greatest within the central housing delivery area in which the site is situated. The provision of the 40% affordable housing can be ensured by way of the S106 legal agreement.

177. In regards to ii) 40% PBHM on the site would provide a wider choice of homes and widen opportunities for home ownership than standard open market housing. It is considered a benefit of the development though it cannot be afforded the same weight as that given to the delivery of NPPF compliant affordable housing. Again a legal agreement can ensure the PBHM is provided should the affordable housing not be provided.

178. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy.

Adverse Impact

179. The development would result in an encroachment into the countryside beyond the existing built-up area of Coxhoe with a degree of resultant landscape and visual harm.

180. The open space provision provided within the development (layout determined at the reserved matters stage) is unlikely to meet the standards provided within the OSNA.

CONCLUSION

181. The acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 14 of the NPPF.

182. The application site is neither locally, nor nationally designated in terms of its landscape quality, and whilst the development would alter the character of the landscape, such impacts would be limited.
183. The adverse impacts are considered to not significantly and demonstrably outweigh the benefits of the proposal which would principally relate to; the boost to housing supply including affordable homes/PBHM homes and direct and indirect economic benefits.
184. The proposal has generated public interest. Concerns expressed regarding the proposal have been fully taken into account, and carefully balanced against the scheme's wider social, economic and environmental benefits. However, they are not considered to raise issues that justify planning permission being withheld.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 to secure the following:

- i) The provision of 40% affordable housing or the provision of 40% Prince Bishops Homes Model housing
- ii) Financial contribution towards school accommodation provision – final figure to be devised at the reserved matters stage
- iii) Financial contribution of £4,000 towards the provision of public art

And subject to the following conditions:

1. Application for approval of reserved matters shall be made to the Local Planning Authority before 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 appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before the 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 in strict accordance with the following approved plans and documents:

Plans:

Site Location Plan Rev 1 dated 10/03/15
Landscape Proposals D106.P.101

Documents:

Noise Assessment Document by ENS Ltd reference NIA/5236/14/4965/v2

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regard to Policies E7, E14, E15, E16, E18, H13, T1, R2, Q1, Q2, Q5, Q6, Q8, U5 and U7 of the City of Durham Local Plan 2004 and having regards to Parts 1, 4, 6, 7, 8, 10, 11 and 12 of the NPPF.

4. No development shall take place until the detailed design of the vehicular access to the site has been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of highway safety having regards to Policy T1 of the City of Durham Local Plan 2004. *Required to be pre-commencement as the final access arrangements to the site should be known prior to works commencing.*

5. No development shall take place until a detailed scheme for the disposal of foul and surface water from the development has been first submitted to and then approved by the Local Planning Authority. The submitted shall accord with the hierarchical approach to surface water disposal. The scheme shall include but not necessarily be restricted to the following;

- Detailed designs of features, infrastructure and any associated works and landscaping
- Full details of all surface water run-off rates and discharge rates to any watercourse
- Full details of the management and maintenance proposals/regime

The development shall thereafter be implemented in accordance with the approved scheme. The approved scheme shall managed, maintained and operated in perpetuity.

Reason: To ensure adequate surface water disposal measures for the development in the interests of reducing the risk of flooding having regards to City of Durham Local Plan Policies U8A, U9 and U10 and Part 10 of the NPPF. *Required to be a pre-commencement condition as the final drainage system should form an integral part of the layout of the development.*

6. No development shall take place until a scheme to minimise energy consumption has been submitted and approved by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in accordance with the approved scheme and retained so in perpetuity.

Reason: In the interests of sustainable construction and energy generation in accordance having regard to Policy U14 of the City of Durham Local Plan 2004 and having regards to Part 10 of the NPPF. *Required to be pre-commencement as the energy reduction scheme should seek to involve a fabric first approach designed and potentially implemented at an early stage.*

7. No development shall take place until the results of an intrusive site investigation of ground conditions having regards to coal mining legacy in the vicinity of the site have been submitted to and approved in writing by the Local Planning Authority. Where the results of the site investigation necessitate the need for remedial measures to be undertaken then said remedial measures must also be submitted to the Local Planning Authority and the development must thereafter be implemented in accordance with the approved details.

Reason: In the interests of land stability and coal mining legacy issues having regards to Policy U13 of the City of Durham Local Plan and Part 11 of the NPPF. *Required to be pre-commencement so that any site instability issues are understood and can be catered for prior to development commencing.*

8. No development shall take place until a scheme to deal with any contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following:

Pre-Commencement

(a) A Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

(b) If the Phase 2 assessment identifies any 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.

Completion

(c) 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 City of Durham Local Plan Policies U11 and U10 and NPPF Part 11.

9. No development shall take place until a construction management strategy has been submitted to and approved by the Local Planning Authority. Said management strategy shall include but not necessarily be restricted to the following;
- Details and methods of dust suppression which will include a Dust Action Management Plan
 - Details and methods of noise reduction
 - Confirmation that the burning of combustible material shall be prohibited on site
 - Details and methods of reducing the potential for mud on the roads in the vicinity of the site
 - A management plan for the construction vehicle and delivery vehicle movements to and from the site including details of predicted movements any Banksmen and Signallers to be employed
 - Details of parking arrangements/management of construction site staff
 - Details of compound location
 - Details of the site construction hours within which construction activities including any deliveries to and from the site shall be permitted

The construction phase of the development shall be implemented in accordance with the approved construction management strategy.

Reason: In the interests of the residential amenity of neighbouring occupiers having regards to the City of Durham Local Plan Policies U5 and U7 and Part 11 of the NPPF. *Required to be a pre-commencement condition as construction activity mitigation must be agreed prior to the commencement of the works.*

10. No development shall take place unless in accordance with the Biodiversity Management Plan dated February 2015. The management methods and proposals contained within the Biodiversity Management Plan shall be implemented in perpetuity.

Reason: To minimise impacts upon protected species and to preserve nature conservation assets having regards to Policies E16 and E18 of the City of Durham Local Plan and Part 11 of the NPPF.

11. No development shall take place unless in accordance with the noise mitigation proposals contained within section 5 of the submitted Noise Assessment Document by ENS Ltd reference NIA/5236/14/4965/v2.

Reason: To ensure that occupiers of the development receive acceptable levels of amenity having regards to Policies Q8 and U7 of the City of Durham Local Plan 2004 and Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this 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) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

BACKGROUND PAPERS

- Submitted application forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- City of Durham Local Plan 2004
- The County Durham Plan (Issues and Options)
- Statutory, internal and public consultation responses



Planning Services

Construction of 55 residential dwellings comprising 22 affordable dwellings and 33 open market dwellings with associated infrastructure, landscaping and engineering works (outline, all matters reserved except access) at Land to the east of Prospect Place, Commercial Road East, Coxhoe (DM/15/00793/OUT)

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Comments

Date July 2016

Scale Not to scale

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01506/FPA
FULL APPLICATION DESCRIPTION:	Erection of a 1,114 sq.m mezzanine floor
NAME OF APPLICANT:	Wm Morrison Supermarkets Plc
ADDRESS:	B&Q Warehouse, Unit 1, McIntyre Way, Durham City Retail Park, Gilesgate Moor, Durham
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Colin Harding, Senior Planning Officer, 03000 263945, colin.harding@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site:

1. The application site comprises the existing B&Q retail warehouse at Durham City Retail Park. At present, only part of the unit is occupied by B&Q, with the remainder currently unoccupied. To the north of the site lies residential housing, and Bannatyne Health Club and Spa, to the east lies Just Car Clinic, with the A1(M) beyond, to the south lie other units on the retail park, Currys PC World, Argos and Sports Direct, amongst others. To the west is car parking, with car dealerships beyond.
2. There are no Public Rights of Way in the vicinity, and The Scrambles Local Wildlife Site lies approximately 1km to the east of the site, Durham City Centre Conservation Area lies 1km to the west of the site, and an Area of High Landscape Value lies 300m to the south east.

The Proposal:

3. Planning permission is sought for the erection of a 1114 sq.m mezzanine floor within the vacant part of the existing retail unit, at its eastern end. The applicant has advised that they no longer wish to develop the vacant retail unit as a foodstore, and are instead intending to subdivide the unit into two units to allow the occupation of The Range, and Go Outdoors.
4. The proposed mezzanine floor would be associated with the Go Outdoors unit, and would be intended to facilitate the display of camping and outdoor equipment, such as tents.
5. A separate application has been submitted in relation to external alterations required to facilitate the subdivision of the unit. This is currently being considered and is due to be determined under delegated powers.

6. This application is being reported to Central and East Planning Committee as it constitutes a major retail development proposal involving the creation of more than 1000 sq.m of additional floor space.

PLANNING HISTORY

7. The retail park was originally approved on appeal, following the refusal of application 4/02/00526. Since then, there have been a number of planning applications and applications for advertisement consent;
8. DM/15/01652/FPA - Proposed external substation, Re painting of existing cladding, re-painting of the curtain wall mullions and alterations to the service yard canopy design - Approved 24/07/2015
9. DM/15/01132/AD - 2No Internally Illuminated Signs, 3No Non-Illuminated Panel Signs and 2No Banner Signs - Approved 22/05/2015
10. DM/14/02769/FPA - External alterations to the existing retail unit and site, including removal of builders yard roof, ground works to builders yard, erection of new lighting columns, trolley shelters, bollards, service yard gates and new fire exit doors on the building's northern elevation – Approved 24/10/2014 – This application comprised the external changes that would allow Morrisons to operate a foodstore.
11. DM/14/01588/COL - Application for a Lawful Development Certificate for proposed A1 Use – Approved 04.08.2014 – This application confirmed that the unit can operate as a general A1 retail unit, with no restrictions on goods sold.
12. CE/13/01118/FPA - External alterations including new canopies to front, sides and rear elevations – Approved 13/07/2014
13. 4/10/00957/AD - Erection and display of 10 no. signs comprising non-illuminated and internally illuminated fascia and individual letter signs to north and east elevations of existing building (amended plan). – Approved 17/02/2011
14. 4/04/01333/FPA - Installation of external air conditioning equipment within a secure cage – Approved 25/01/2005
15. 4/04/01156/AD - Erection and display of illuminated and non-illuminated fascia and freestanding site signs – Approved 01/12/04
16. 4/04/01154/FPA - Erection of greenhouse and open canopy within garden centre area – Approved 01/12/2004

PLANNING POLICY

NATIONAL POLICY

17. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). 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. 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'.

18. 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. The following elements of the NPPF are considered relevant to this proposal.
19. *NPPF Part 1 – Building a Strong, Competitive Economy*. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

20. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; retail development and highways impacts.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

21. *Policy S1A (Retail Hierarchy)* - seeks to protect and promote the vitality and viability of all centres within the local retail hierarchy.
22. *Policy S8 (Retail Warehousing Outlets)* – states that new retail warehouse development will be permitted on designated sites, providing, amongst other things, that there is demonstrable need, a sequential test has been carried out, and the vitality and viability of existing centres would not be adversely affected.
23. *Policy S9B (Major Out of Centre Proposals)* – states that where an identified need for large-scale retail cannot be met through existing allocations, preference should be given to sites within the city centre, followed by district centres at Sherburn Road/Dragon Lane and the Arnison Centre, and then local shopping areas within the built up area of Durham City. Where such development cannot be accommodated in these locations, it will only be acceptable elsewhere if; it satisfies a demonstrable need and conforms to the sequential approach, does not adversely affect the viability and viability of any existing centre within and outside of the district, would not give rise to serious access problem, would not result in a substantial increase in car usage, and it can be shown that the site is accessible by a choice of means of travels.
24. *Policy EMP8 (General Industrial Sites)* - This policy designates general industrial sites, and identifies the site of Durham City Retail Park as being suitable for B1, B2 and B8 development.
25. *Policy T1 (Transport – General)* – states that developments that would generate traffic which would be detrimental to highway safety or amenity of adjoining occupiers will be resisted.

26. *Policy CC1 (Vitality and Viability)* – states that the Council will seek to protect and enhance the vitality and viability of the city centre by promoting a mix of uses, and sustaining the city centre shopping centre in accordance with other retail policies.

RELEVANT EMERGING POLICY:

The County Durham Plan (CDP)

27. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:
<http://www.durham.gov.uk/media/3396/City-of-Durham-local-plan-saved-policies/pdf/CityOfDurhamLocalPlanSavedPolicies.pdf>
<http://durhamcc-consult.limehouse.co.uk/portal/planning/> (County Durham Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. *Belmont Parish Council* – No objections raised. The prospect of two new stores, and their employment potential is welcomed.
29. *Highway Authority* – No objection raised - The addition of floor space will result in additional footfall to a development and therefore additional parking demand. Whilst it is accepted the addition of a mezzanine floor would not result in a pro rate increase in parking demand (per GFA); research has suggested that there would be an increase of up to 20% in footfall. It is accepted that a significant proportion of trips to such development are linked and not primary trips. An additional 9 parking spaces would be required to meet the likely peak period demands for the development.
30. The shortfall in supply is likely lead to drivers entering then leaving site without finding space at peak periods, however this shortfall would not be significant enough to support an objection on the grounds of severe impacts.

INTERNAL CONSULTEE RESPONSES:

31. *Spatial Policy* – No objections. The applicants have provided a sequential assessment which passes the test outlined in the NPPF. Given that there no current restrictions to goods which can be sold at the unit, it would be unreasonable to seek to restrict the mezzanine floor in this respect.

PUBLIC RESPONSES:

32. The application has been advertised by means of press and site notices. No letters of representation have been received.

APPLICANTS STATEMENT:

33. The applicant, Morrisons, have planning permission to operate a foodstore from the northern part of the unit. However, Morrisons no longer wishes to implement this permission nor does it wish to occupy the unit as a foodstore and is instead seeking permission to erect a Mezzanine Floor to allow the unit to be sub-divided for two new retailers: The Range and Go Outdoors.
34. A separate application is currently pending with the Local Authority which proposes a number of external alterations required to allow the unit to be sub-divided into two individual retail units.
35. Go Outdoors sells a wide range of outdoor and camping equipment and therefore require suitable amounts of floorspace in order to fully stock and display often bulky items. As a result, the additional floorspace is proposed via the introduction of a Mezzanine Floor, providing the retailer with the floorspace required in order for them to accommodate the vacant unit.
36. The proposed additional floorspace provided through the Mezzanine Floor will allow the retailer to stock and display larger items of stock, for example tents and outdoor sports equipment, therefore, increasing the range of goods available to consumers and ensuring that prices remain affordable.
37. The principle of the development has been considered within the planning application and it has been demonstrated that the proposals would not pose any adverse impacts. A Sequential Approach has also been taken to site selection which demonstrates that there are no preferable alternative locations in which to locate the development.
38. The proposed development will bring about benefits including job creation, enhanced consumer choice and maintenance of the presence of national retailers at Durham City Retail Park.
39. In short, the application accords with all relevant and national policy and there are no other relevant issues or material considerations which would pose an unacceptable harm as a result of the development. The considerable benefits of the scheme significantly and demonstrably outweigh the limited impacts.

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

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

40. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, and its impact upon highway safety.

Principle of Development

41. Within the CDLP, this site benefits from dual allocation, with Policy EMP8 allocating the site for employment purposes, whilst CDLP Policy S8 allocates it for Retail Warehouse use. Policy EMP8 is considered to be NPPF compliant, so weight can continue to be afforded to it, whilst Policy S8 is only partially compliant, insofar that NPPF does not explicitly reference bulky goods, nor does it require an assessment of need, however the requirement of Policy S8 for a sequential assessment to be carried out is NPPF compliant. Consequently, a degree of weight can continue to be afforded to this policy.
42. Durham City Retail Park was originally developed in line with Policy S8, in that occupiers were restricted to bulky goods. However, following an application relating to Unit 9 of the Retail Park in 2002, it was accepted that the condition attached to the original planning permission for Retail Park, which sought to restrict goods to be sold did not adequately serve this purpose, and that a restriction on goods did not apply to the Retail Park.
43. In 2014, the applicant submitted an application for a Certificate of Lawfulness in relation to this particular unit, and it was confirmed that there is no restriction on the goods to be sold. Therefore, the use of the unit by Morrisons, or indeed The Range and Go Outdoors does not fall within the remit of this application. The subdivision, in itself is not considered to be development, and therefore does not require planning permission.
44. In this context, the matter of principle centres around whether the provision of an additional 1114sq.m of A1 retail floorspace in this location, is acceptable, and whether it would unreasonably impact upon Durham City Centre, or other defined Local Centres.
45. CDLP Policy S9B advocates a retail hierarchy approach to locating new major retail development, and requires, where out of centre retail proposals are forthcoming, that they be subject to a sequential test. This is consistent with the NPPF, which at Paragraph 24 states that a sequential test to planning applications for main town centre uses should be applied where they are not in accordance with an up-to-date Local Plan. It goes on to state that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. It also states that when considering out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.
46. In addition to this, NPPF also states that when assessing applications for retail, leisure and office development outside of town centres, an impact assessment should be required. LPAs should require an impact assessment if the development is over a proportionate, locally set threshold. Where there is not a locally set threshold, the NPPF gives a default threshold of 2,500sqm. As there is currently no locally set threshold, the NPPF threshold applies in this instance, and therefore there is no requirement for an impact test to be carried out as the additional floorspace is only 1,114sq.m. However, a sequential assessment has been carried out.
47. Planning Practice Guidance (PPG) confirms that it is for the applicant to demonstrate compliance with the sequential test and the application of the test should be proportionate and appropriate for the given proposal. It goes on to state that in determining whether a proposal complies with the sequential test, the following considerations should be taken into account:

- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre.
 - Is there any scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
 - If there are no suitable sequentially preferable locations, the sequential test is passed.
48. The applicant has identified two alternative potential development sites that are within, or close to a defined a centre. They comprise Unit C (former Homebase) at Arnison Retail Park, and Prince Bishop's Shopping Centre in Durham City. For the purposes of the sequential assessment, the gross floor space of the existing unit, and the proposed mezzanine floor are considered to comprise the required unit size. This amounts to 3,381sq.m. It is further considered that it would not be reasonable to expect the applicant to disaggregate the business for the purposes of the sequential assessment.
49. Unit C at the Arnison Centre is due to be replaced with four smaller units, of between 1,150sq.m and 4,666sq.m gross floor area. Of these units, three would be too small to accommodate the retailer's needs, and with no little scope for extension. Whilst the fourth unit would be of sufficient size, the sequential assessment finds that the unit is not on the market, and does not appear to be available. This assessment correlates with information held by the Local Planning Authority, and it is accepted that the unit is not currently available.
50. With regards to the Prince Bishop's Shopping Centre in the city centre, the conclusions of the sequential assessment that the site is heavily constrained in terms of size, and with extremely limited opportunity for extension, and therefore are not suitable, are accepted.
51. Having regards to the above, it is considered that the sequential test has been passed, and this element of CDLP Policy S9B has been met. Additionally, as there are no sequentially preferable sites available, the vitality and viability of the city would, it is considered, be maintained, in accordance with Policy CC1.
52. It is considered that in the strictest terms, that the proposal would be contrary to CDLP Policy S8 in that it would not constitute a retail warehouse. However, given that it has been previously accepted that there is no current restriction on the range of goods that can be sold at present from the application site, and further that the weight can be afforded to Policy S8 is reduced due to it's only partial compliance with the NPPF, it is considered that it would be unreasonable to resist this proposal on this basis, particularly as the submitted sequential assessment has demonstrated that there are no suitable sequentially preferable sites available.
53. Having regards to the above therefore, the principle of the development is accepted.

Vehicular Access and Highway Impact

54. Durham City Retail Park is considered to be in a sustainable location, with good pedestrian, cycle and public transport access, in accordance with the requirements of Policy S9B in this respect.
55. The County Highways Authority acknowledge that the additional proposed floorspace will result in additional footfall, and therefore will increase parking demand. It is also accepted that the mezzanine floor would not result in a pro rata increase in parking demand, although footfall would be expected to increase by up to 20%. However, it is expected that many of these trips will be linked. On the basis of the proposed floor area, an additional 9 parking spaces would normally be required to meet the peak period demand, and shortfall is likely to lead to drivers circulating.
56. CDLP Policy T1 states that planning permission will not be granted for development generating traffic that would be significantly detrimental to highway safety. This is considered to be only partially NPPF compliant, with paragraph 32 stating that development should only be prevented or refused on transport grounds where residual cumulative impacts are severe. Consequently only reduced weight can be afforded to Policy T1.
57. Whilst the Highway Authority consider that there would be a shortfall in parking provision to serve the proposed mezzanine floor, they also consider that this shortfall is minor, and that it would not constitute a severe impact, for the purposes of paragraph 32 of the NPPF, and consequently the proposal is considered to be acceptable in this respect.

Other Issues

58. With regards to other issues, the potential impacts of the development are considered to be minimal, with the proposed works being entirely internal to the existing building. Any external alterations are subject to a separate application which is currently under consideration. This separate application will fully consider the potential design and heritage implications of the subdivision works.
59. The site is located within Flood Risk Zone 1, which is the lowest level of risk. Additionally, the proposed floorspace is at mezzanine level, so flood risk would not be increased at the site, or elsewhere.

CONCLUSION

60. Although Durham City Retail Park through CDLP Policies EMP8, S8 and S9B, was originally envisaged as a employment and retail warehousing site, the way the Retail Park has developed has led to it become a more general retail outlet, with it being accepted that there are no restrictions on the type of goods to be sold.
61. In this context, it is considered that weight to apportioned to Policies EMP8 and S8 is diminished, although a sequential assessment in accordance with Policy S9B to ensure that there are no sequential preferable suitable sites available, is still necessary. The sequential assessment has been carried out, and its conclusion that there are no available preferable sites is considered to be reasonable.
62. In terms of highways impact, it is accepted that there may be some minor adverse impacts due to a shortfall in parking provision, however it is considered that these would not constitute severe impacts for the purposes of paragraph 32 of the NPPF. The application is considered to be acceptable in other regards.
63. It is considered, that for the reasons above, that it would be unreasonable to seek to resist the application, which is therefore recommended for approval.

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 in strict accordance with the following approved plans:

Site Location Plan 15166/PA/10
Proposed Site Plan 15166/PA/05

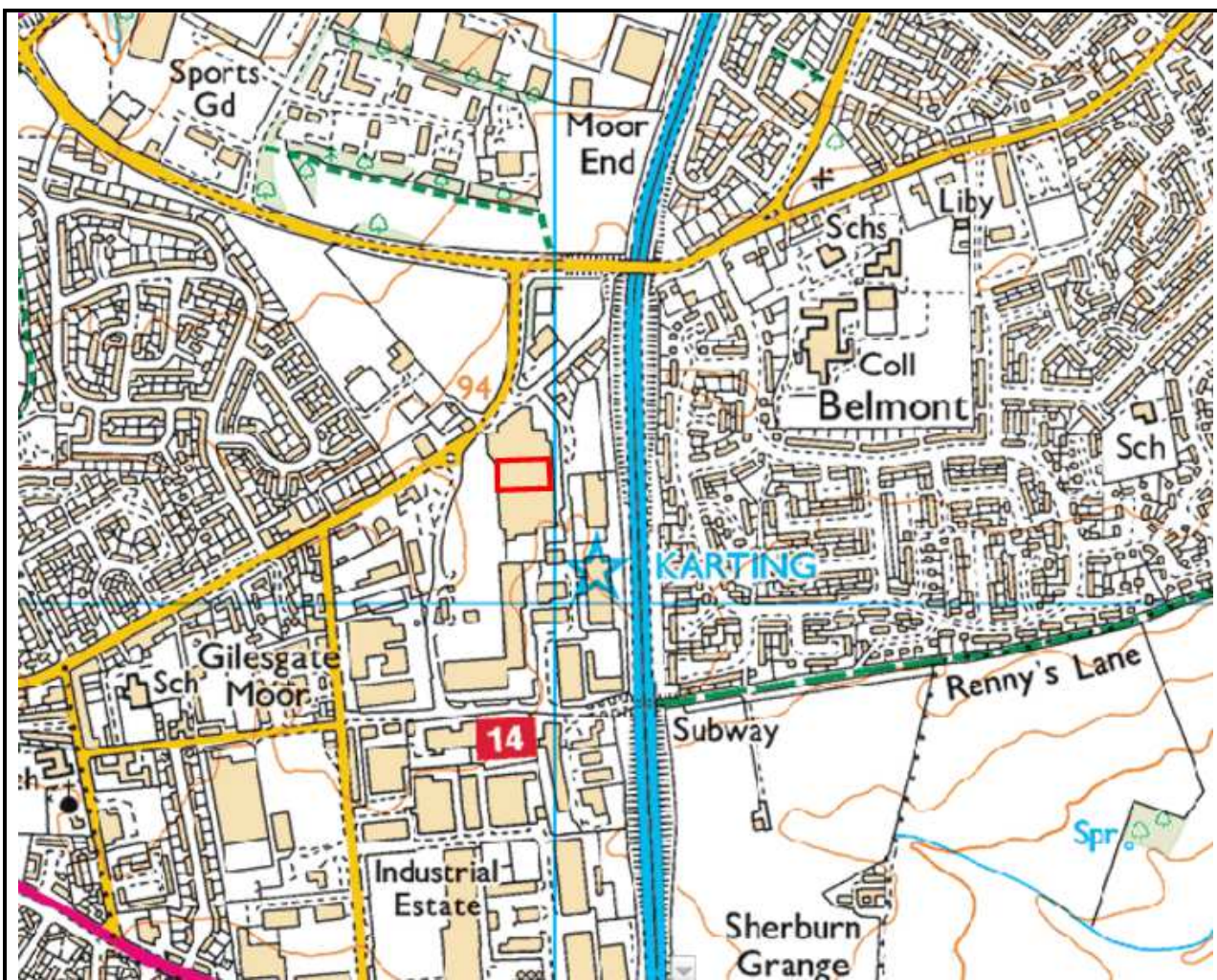
Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to City of Durham Local Plan Policies S8 and S9B.

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 forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- City of Durham Local Plan
- Assessing Development Proposals in County Durham (April 2016)
- Statutory, internal and public consultation response



Planning Services

Erection of a 1114 sqm Mezzanine Floor at B&Q Warehouse, Unit 1, McIntyre Way, Durham City Retail Park, Gilesgate Moor, Durham (DM/16/01506/FPA)

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Comments

Date
1st July 2016

Scale
Not to scale

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/03735/VOC
FULL APPLICATION DESCRIPTION:	Variation of conditions 2 and 12 relating to car parking and flood risk and removal of conditions 3, 5, 8, 9, 10 and 11 of application ref: DM/14/01821/FPA (35 apartments)
NAME OF APPLICANT:	Persimmon Homes
ADDRESS:	Land at Kepier House, The Sands, Durham
ELECTORAL DIVISION:	Elvet & Gilesgate
CASE OFFICER:	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This application site is located to the North East of the city centre and is immediately adjacent to and overlooks the south bank of the River Wear. The site slopes toward the river from north to south and is separated from the river bank by the Providence Row and a substantial area of accessible green open space known as The Sands; which forms the South Bank. The site is located within the Durham City Conservation Area.
2. The site is currently vacant and surrounded by security fencing. A previously approved residential development has been progressed on the Northern part of the site. The progress of these works includes excavations for a basement car park and extensive piling to suit that scheme, various spoil heaps from those excavations remain on site. The Southern elevated section of the site is more attractive and remains landscaped with a series of mature protected tree canopies. It is the intention to utilise some of these excavations and piling within the amended proposal.
3. The surrounding area is predominantly residential in character; and these properties are on the whole fairly modern; mostly dating from the 1950's onwards. The area has been developed in a piecemeal manner as a series of smaller estates. Further west along Providence Row the scale of buildings increases on the approach to Claypath and the city centre.
4. In 2004 the erection of 16 no. residential apartments and 4 no. townhouses and change of use and conversion of existing student hostel to 2 no. dwellings was approved and partly commenced. More recently, planning permission was granted in 2015 for a scheme for 35 apartments on this site. The difference between this application and the previous approval is that the car parking has been reduced to 34 spaces and is now located around the building rather than being located in an undercroft car park and there are minor elevational changes.

The Proposal

5. This application proposes the variation of conditions 2 and 12 of the previously approved application relating to layout and design and flood risk. In addition it is also proposed to discharge conditions 3, 5, 8, 9, 10 and 11 of the application relating to materials, tree protection, sustainability, archaeology and contaminated land. The proposal in scale and design terms is almost identical to the previously approved application, the building would be split level mainly three storeys in height rising to four storeys as the site rises to the south. The apartments would be located in two blocks and would consist of a main apartment block which is three storeys in height which would step down through the site to reflect the natural change in the site topography. There is a small section at four storeys where the change in level occurs.
6. The proposals now include 8 surface level car park spaces accessed off The Sands and a further 16 accessed off Ferens Close. A further 10 spaces are accessed at the south end of Ferens Close with a footpath link to the development (34 spaces in total). This differs from the previously approved undercroft car parking arrangement.
7. The presence of mature trees on the site means that a large part of the site is undevelopable; although this has provided an opportunity to develop a scheme incorporating a considerable area of landscaping. The existing tree canopy and proposed additional landscaping would also provide context and soften the appearance of the proposed building which would be constructed from brick and render with grey anthracite windows as per the previous approval.
8. This application is being referred to Committee at the request of a local member who has concerns regarding the new car parking arrangements.

PLANNING HISTORY

9. On 5th February 2004 two applications were submitted; one for Full Planning Consent (04/00165/FPA); one for Conservation Area Consent (04/00142/CAC). Both seeking consent for; "The erection of 16 no. residential apartments and 4 no. townhouses and change of use and conversion of existing student hostel to 2 no. dwellings". These applications were approved on 2nd June 2004 and subsequently commenced, although this development later ceased on site due to viability issues.
10. In 2014 the demolition of Kepier House and erection of 35 no. apartments including all associated external works was approved, but again this has never commenced due to viability and potential flooding issues to the undercroft car park.

PLANNING POLICY

NATIONAL POLICY

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

12. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
13. 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;

14. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
15. *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.
16. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
17. *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.
18. *NPPF 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.
19. *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.

20. *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.
21. *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:

22. 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.
23. 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.
24. 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.
25. Policy E21 (Conservation and Enhancement of the Historic Environment) requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
26. 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.
27. Policy H2 - (New Housing within Durham City) states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.
28. Policy H12 - Affordable Housing seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.

29. 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.
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 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.
33. 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.
34. 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.
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 U15 - Energy Conservation – Renewable Resources permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

RELEVANT EMERGING POLICY:

37. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. The Environment Agency had not responded at the time of writing this report.

INTERNAL CONSULTEE RESPONSES:

39. Design and Conservation officers initially did not support the amended application given the changes to the car park arrangements. However, amended plans have since been received which include additional landscaping around the car parking area.
40. Highways officers have no objections to the location of the car park or level of car parking provision.
41. Ecology officers have no objection subject to the mitigation outlined in the submitted ecology report being conditioned.
42. Landscape officers have no objections to the proposals.
43. Tree officers have no objections to the proposals given that the proposals do not involve more tree loss than that of the previously approved application.

PUBLIC RESPONSES:

44. Northumbrian Water have no objections.
45. 21 letters of objection have been received from 15 addresses in the vicinity of the site as a result of the consultation process, which has included re-consultation due to amended plans being received. The main reasons for objection include an increase in traffic, lack of car parking spaces and the location of the car park which would result in noise and disturbance. Concerns also include the loss of trees, flood risk and the appearance of the development. These concerns will be discussed later in the report.
46. Cllr Ormerod has raised concerns relating to the proposed car parking arrangements.

APPLICANTS STATEMENT:

47. This development offers the opportunity to create a new sustainable residential development within Durham City. The proposal for 35 apartments provides an excellent range and choice of dwellings to satisfy current and future residential requirements for Durham City and also provides a type and size of dwelling which is currently under provided within the locality.
48. We have engaged with the Council throughout the planning process and are satisfied that the scale and form of development, as well the proposed housing mix is appropriate within this locality. The proposals shall develop an urban brownfield infill site within the development limits of Durham, creating a new, attractive residential development for the city.

49. The site's location within an existing residential area of Durham city and close to the city centre ensures that the site is highly sustainable in relation to local amenity with a wide variety of services, facilities, open space, recreational facilities, and local schools within close proximity to the development. Furthermore, the proximity to bus routes and the train station provide a high level of sustainable transport options for future residents.
50. Both public and statutory consultation has been carried out through which a number of concerns were raised. Through adaption of the proposal in responses to these concerns we are confident that there are no outstanding issue regarding the development.
51. Finally, the impacts of the development have been mitigated via a planning gain package which includes an offsite Play Space Contribution and a percentage for art contribution.

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

52. 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 the development and accordance with the Governments recently published National Planning Policy Framework (NPPF), and the saved policies from the City of Durham Local Plan. Other material considerations are the scale, layout and design of the amended development, car parking issues, the discharge of conditions, Section 106 issues and the concerns raised by local residents.

Principle of the development

53. Firstly, it should be noted that the planning permission which was approved in 2004 has been partly implemented through the erection of four townhouses, creation of hardstandings, pile foundations and other associated groundworks. In addition a development of 35 apartments was approved in 2015. Therefore a fall-back position exists which would enable the previously approved scheme to be implemented. This scheme was of similar design to the one currently being proposed and was also three storeys in height. Therefore the principle of the development has already been established.

Scale, layout and design of the development

54. The NPPF's twelve core planning principles states that the planning process should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Good design, the NPPF states, is "indivisible from good planning."
55. Policy H13 of the LP states that planning permission will not be granted for new development that would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. Policies Q1, Q2 and Q8 list design features which will be encouraged within residential areas.

In addition, saved Policy Q8 of this plan sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised. These policies are reflected in part 7 of the NPPF which also requires good design and the protection of residential amenity.

56. In addition to the above, saved Local Plan Policies E6, E21 and E22 all require the character of conservation areas to be preserved or enhanced. Policy E6 is particularly relevant to this application as it relates to the Durham City Centre Conservation Area. It states that the special character, appearance and setting of the Durham City Centre Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
57. As previously noted, planning permission was approved in 2004 and implemented thereafter for a scheme which was of similar design to the one currently being proposed and is almost identical to that which was approved in 2015. It is considered that the proposal would result in a modern and attractive development that would be appropriate to its river side context. The brick and render elevations would give a contemporary appearance and would respect the scale and context of the locality. It is considered that the proposals would enhance this part of the Durham City Conservation Area which at present is in an untidy derelict state in accordance with saved policies E6, E21 and E22 of the Local Plan.
58. The main difference in this application is that the car parking will now be external and would not be located in an undercroft car park. Whilst the undercroft car park was desirable in visual terms, it was not required to make the development acceptable. It is not considered that the current proposal for external car parking and hedgerow screening would have any significant adverse impact on surrounding occupiers or the street scene which would warrant refusal of planning permission.
59. Overall, the development in terms of scale, design and layout is considered to be appropriate for this particular location. It is considered that the scale and layout of the development is acceptable and the design is of a high standard, therefore the proposals are considered to be in accordance with saved City of Durham policies H13 and Q8 and NPPF part 7.

Car Parking Issues

60. Highways officers have noted that this application compares to the original application which contained 46 spaces, 35 of which were undercroft parking. It should be noted that development within 400m of the city centre would not require any parking space to be allocated to residents. This development is approximately 500m from Claypath. This has been considered in highways deliberations regarding this application.
61. The Council's parking and accessibility guidelines states 1 space should be provided per 2 bed residential unit and further visitor space at 1 space per 3 units. However, within city and town centre accessible areas guidelines state this standard may be reduced and a maximum standard is applied. This is to take account of the requirement to promote sustainable transport options. The minimum standard would suggest 46 spaces would be required. However given the accessible location and the parking controls within the area, highways officers consider it is reasonable to relax the standard.

62. The development is located within the City's Controlled parking Zone. Ferens Close is controlled with permits and pay and display parking is available on The Sands. There would be no free areas for residents within the public highway. No parking permits would be issued to residents or their visitors who would have to meet Pay and Display Charges if they choose to park on street. They would not be permitted to park on Ferens Close. Given that the development is within close proximity to the City Centre and its public transport, reliance on the car for travel will be less than a more remote development. It is therefore considered reasonable given the inconvenience of the parking restrictions that some residents and visitors will not travel by car but will instead choose sustainable travel modes. Whilst the parking provision for the development is less than 1 space per unit it is considered that 34 spaces for 35 units will be acceptable. Space would be available for visitors should they choose to travel by car through use of Pay and Display at The Sands. Highways Officers do not consider the demand for parking if it arose in the Pay and Display areas could be considered to have a severe impact.

63. In light of the above it is considered that the proposals are in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the NPPF.

Discharge of conditions

64. Condition 3 of the previously approved application relates to materials. It is considered that the information submitted with regard to choice of materials (which are the same as previously approved) is acceptable, however this condition cannot be discharged at this time as it requires samples to be submitted.

65. The information submitted relating to condition 5 (tree protection) can be discharged as a suitable tree protection plan has been submitted. All information relating to conditions 8, 9 and 10 relating to sustainability, archaeology and contaminated land is also considered acceptable. Therefore it is recommended that conditions 5, 8, 9, 10 and 11 are discharged subject to the development being carried out in accordance with the approved documents. At the time of writing the report responses have not been received from the Environment Agency with regard to flood risk and therefore a verbal update will be given at committee.

Section 106 Agreement

66. The application approved in 2015 to which this current application relates included a Section 106 legal agreement which secured £35,000 towards the provision or improvement of recreational facilities in the Electoral Division and a public art contribution of £30,000 for a public art installation in the Electoral Division. In order to ensure these contributions are still secured the applicant will need to agree to a Deed of Variation to the original Section 106 agreement before this permission can be granted.

Letters of concern from nearby residents

67. As previously mentioned, 21 letters have been received in response to the consultation exercise. The main reasons for objection include an increase in traffic, lack of car parking spaces and the location of the car park which would result in noise and disturbance. Concerns also include the loss of trees, the appearance of the development and flood risk.

68. In terms of traffic congestion, parking and access, these issues have been assessed by the council's Highways Officers and have found to be acceptable; officers also consider that the level of car and cycle provision is acceptable. In addition, it is not considered that the location of the car parking along with the proposed hedgerow screening would cause any significant harm to residential amenity that would warrant refusal of planning permission. With regard to the scale and design of the building, it is noted that the building is of the same scale and design as the two developments' previously approved and officers still consider this to be acceptable. The building would replace a previously derelict building on an untidy site and would enhance the Durham City Conservation Area. The concerns relating to loss of trees is not relevant as the level of tree removal is the same as the previously approved application. Finally, in terms of flood risk, the applicant has submitted a flood risk assessment in accordance with the requirements of the NPPF, at the time of writing the report no response has been received from the Environment Agency and therefore an update will be given at committee.

69. In light of the above, all of the issues raised by residents have been fully assessed either within this report or during consideration of the two previous planning approvals and their impacts are not considered to warrant refusal of planning permission.

CONCLUSION

70. Overall it is considered that the proposals are in accordance with the development plan and the National Planning Policy Framework. The proposed residential development is in a highly sustainable location near the city centre with good access to public transport, local shops, healthcare providers, schools and other community facilities.

71. The scale, layout and design of the amended development are considered to be appropriate for this location and would visually enhance the Durham City Conservation Area. The proposals would deliver a high quality development whilst vastly improving what is an untidy and derelict site. In addition, the developer has previously agreed to contribute £35,000 toward recreational facilities in the Electoral Division along with a £30,000 contribution toward public art which has already been secured through a Section 106 legal agreement.

72. On the basis of the above, officers recommended that the amendments to the previously approved application be approved and the removal of conditions agreed.

RECOMMENDATION

That the application to vary conditions 2 and 12 of permission ref: DM/14/01821/FPA and to discharge conditions 5, 8, 9, 10 and 11 be **APPROVED** subject to a Deed of Variation to the existing S106 Agreement to secure a payment of £35,000 towards the provision or improvement of recreational facilities in the Electoral Division and a public art contribution of £ 30,000 for a public art installation in the Electoral Division and the following conditions:

Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from 11th May 2015.

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

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

Elevations Sheet 1 DSE-001
Elevations Sheet 2 DSE-002
Elevations Sheet 3 DSE-003
Proposed Site Layout DSL-001
Ground Floor Plan DSP-001
First Floor Plan DSP-002
Second Floor Plan DSP-003
Third Floor Plan DSP-004
Roof Plan DSP-005

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policy Q8 of the City of Durham Local Plan.

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

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

4. Prior to the commencement of any part of the development hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

- Overall strategy for managing environmental impacts which arise during construction;
- Measures to control the emission of dust and dirt during construction;
- Contractors' compounds, materials storage and other storage arrangements, cranes and plant, equipment and related temporary infrastructure;
- Designation, layout and design of construction access and egress points;
- Provision for emergency vehicles;
- Provision for all site operatives, visitors and construction vehicles loading and unloading plant and materials
- Provision for all site operatives, visitors and construction vehicles for parking and turning within the site during the construction period;
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Storage of plant and materials used in constructing the development;
- Enclosure of phase or development parcel development sites or development parcels and the erection and maintenance of security hoarding including decorative displays where appropriate;

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

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

5. No development shall take place unless in accordance with the mitigation detailed within the contents of Section D4 (Mitigation Requirements) of the 'Ecological Surveys of The Sands, Durham' written by E3 Ecology Ltd and received Revision 4 dated 19.6.14

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

6. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme approved under application reference DM/14/01821/FPA shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of the amenity of the area in accordance with saved policy Q8 of the City of Durham Local Plan.

7. The development hereby approved shall be carried out in accordance with the mitigation measures contained within the submitted Flood Risk Assessment by CK21 of December 2015.

Reason: To ensure appropriate drainage is maintained in accordance with saved policy U8a of the City of Durham Local Plan.

8. The development hereby approved shall be carried out in accordance with tree protection measures in accordance with BS 5837 2012 and which are contained within the submitted Tree Protection Plan SSD-005 Rev B.

Reason: In the interests of the appearance of the area and to comply with part 7 of the National Planning Policy Framework.

9. The development hereby approved shall be carried out in accordance with the measures contained within the submitted Sustainability Statement received on 7.12.2015.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Part 10 of the National Planning Policy Framework.

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

Statutory, internal and public consultation responses



Planning Services

Proposed Variation of conditions 2 and 12 relating to car parking and flood risk and removal of conditions 3, 5, 8, 9, 10 and 11 of application ref: DM/14/01821/FPA (35 apartments)

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Comments

Date July 2016

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/03532/FPA
FULL APPLICATION DESCRIPTION:	Demolition of care home and erection of 19 dwellings.
NAME OF APPLICANT:	Stella Property Investments Ltd
ADDRESS:	Dene Hall Care Home, Horden Dene, Easington Colliery Easington
ELECTORAL DIVISION:	
CASE OFFICER:	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This application site is lies within the settlement boundary of Easington Colliery as defined in the District of Easington Local Plan. A derelict care home remains on the site and it is therefore classed as a brownfield site. The former care home has been vacant for some considerable time and is currently in a dilapidated state.
2. The site is located toward the eastern edge of Easington colliery close to the east coast of county Durham. It is approximately 1km southeast of the village centre and has good access to community facilities such as schools, shops, healthcare facilities and several bus stops. The site is bordered to the east by the B1283 Station Road, whilst immediately to the north is an area of open space, beyond which begins the main built up area of Easington Colliery. To the west are allotment gardens, and to the south is Horden Dene which follows the Horden Burn to the coast.
3. The application site has a single access road off Station Road from which several other properties are accessed further to the west. It is adjacent to Horden Dene and is hidden from the public highway by the mature woodland of the dene. The site is characterised by this mature woodland enclosure and attractive stone walling to the northern site boundary, some of the trees are protected by a Tree Preservation Order.

The Proposal

4. This application seeks the demolition of Dene Hall Care Home and the erection of 19 dwellings. 12 of the properties would be 2 bedroomed houses and 7 would be 3 bedroomed houses, all of which would have private rear gardens. The proposed material palette incorporates a buff brick with modern detailing to entrance canopies. This contemporary elevation style would be achieved by using grey UPVC windows and modern entrance door types as well as Cedral cladding. The proposal initially proposed 20 dwellings but was reduced to 19 and the layout amended due to negotiations with officers which related to tree protection.

5. The properties would be two storey forming a mixture of detached, semi-detached and terraced houses with a change in the roof eaves line which would be arranged on a sloping site terrain which would create an interesting street elevation. Access to the site would be off Station Road to the east and there would be 39 parking spaces in total.
6. This application is being referred to Committee as it is classed as a major development.

PLANNING HISTORY

7. In 2006 the demolition of existing care home and construction of new three-storey care home was approved but has never commenced.

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. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
12. *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.

13. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
14. *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.
15. *NPPF 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. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
17. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

LOCAL PLAN POLICY:

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 18 -* Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
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 sites within settlement boundaries of established towns and villages provided the proposal is appropriate in scale and character and does not conflict with specific policies relating to the settlement or the general policies of the plan.

RELEVANT EMERGING POLICY:

25. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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:

26. Northumbrian Water have no objections subject to a foul and surface water drainage condition.

INTERNAL CONSULTEE RESPONSES:

27. Highways officers have no objections and are satisfied with both the access arrangements and level of parking provision.
28. Landscape officers have no objections to the proposals.
29. Tree officers consider that the proposal is acceptable subject to appropriate tree protection. Plans have been amended to show properties moved away from trees to ensure pressure to fell them in future is limited.
30. Environmental Health officers have no objections subject to a condition requiring a contaminated land survey and any necessary remediation being carried out.
31. Ecology officers have no objections subject to ecology mitigation being carried out in relation to bats and protected species on the coast.

PUBLIC RESPONSES:

32. One letter of objection has been received from a nearby resident who has concerns about overshadowing, overbearing impact, loss of privacy, impact on wildlife, highway safety, and that there is no need for further housing in this location.

APPLICANTS STATEMENT:

33. This planning application is being submitted on behalf of Stella Property Investments Ltd and seeks permission for 19 bespoke new build limited range house types aimed at the private family housing market.
34. A pre-application review of the proposals have been done with the Durham County Council. This included a formal submission of pre-application and direct liaison with planning officer to review specific details of the proposal. Written responses and comments have been received, discussed and amendments made to the design as a consequence.
35. In general, the local planning authority has been supportive of the principle of the development. The items addressed have principal concerns of site access road from Station Road, existing trees, landscape and potential of contaminated land.
36. The given comments have been taken into account and reflected in the proposed scheme.

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

37. 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 are the principle of the development, highways issues, impact on surrounding residents and the street scene, affordable housing, ecology and trees. Of particular relevance are the accordance with the saved policies from the District of Easington Local Plan and the Governments recently published National Planning Policy Framework (NPPF).

Principle of the development

38. At the heart of the NPPF is 'the presumption in favour of sustainable development'. In terms of pursuing sustainable development the NPPF sets out five positive improvements to be sought which include;
 - Moving from a net loss of bio-diversity to achieving net gains for nature
 - Improving the conditions in which people live, work, travel and take leisure; and
 - Widening the choice of high quality homes
39. It is considered that the development of the land in question has the potential to deliver these improvements. In addition to the above, the NPPF encourages the reuse of brownfield land such as this application site.

40. Saved Policy 67 of the District of Easington Local Plan stated that housing development will be approved on previously developed sites within settlement boundaries of established towns and villages provided the proposal is appropriate in scale and character and does not conflict with specific policies relating to the settlement or the general policies of the plan.
41. The proposed development site is considered to be a highly sustainable location for residential development given its location in the settlement of Easington Colliery with good access to community facilities such as schools, healthcare provision, shops and public transport links.
42. Overall, officers consider that the submitted scheme does not conflict with or undermine the objectives of the existing planning policy framework for the area or the NPPF. As such, subject to technical matters being addressed there are no planning policy objections to the principle of the development subject to the applicant first entering into an appropriate s106 legal agreement as discussed later in the report. The proposal is considered to constitute sustainable development and on balance the principle of the development is considered acceptable.

Highways Issues

43. As noted earlier in the report, access to the site would be off Station Road to the east and there would be 39 parking spaces in total. This would include 33 in-curtilage spaces, 4 visitor parking spaces and 2 garages. Highways officers have commented that this is a very good standard of car parking provision and is deemed to meet the minimum requirements outlined in Durham County Council's residential Car Parking Standards.
44. Highways officers offer no objections to the proposals and it is therefore considered that with regard to highways issues that the proposals are in accordance with part 4 of the National Planning Policy Framework and saved Policies 36 and 37 of the District of Easington Local Plan.

Impact on surrounding residents and the street scene

45. In terms of the impact on the amenity of existing residents who surround the site and that of those occupying the proposed new properties, the distancing standards as set out in the District of Easington Local Plan are adhered to in all instances. These standards state that a minimum of 21 metres between main elevations facing each other and 13 metres between main elevations and gables should be achieved in order to ensure there are no adverse impacts in terms of overlooking, loss of privacy, loss of light or overshadowing.
46. In terms of the street scene it is considered that the scheme is of a good quality. The scheme has been amended as a result of comments from landscape and tree officers to ensure that the loss of trees and pressure to remove trees in the future is kept to a minimum. The scheme does involve the loss of up to 8 trees however these have been classified as either dead, dying or in a dangerous condition, the house types have been chosen to reflect the fact that the site is within a wooded setting. This would involve the use of materials and features such as buff brick with modern detailing to entrance canopies, grey UPVC windows slate style roof tiles and modern entrance door types as well as Cedral cladding.

47. Overall, it is considered that the proposals would lead to a good quality housing scheme on what is now a derelict site. The proposals would retain a significant number of trees which would lead to a pleasant outlook for future residents. There would be little or no impact on nearby residents given the distances involved and the retention of the surrounding woodland which would screen the development, On balance, having regards to part 7 of the NPPF and the most applicable Policies of the District of Easington Local Plan officers raise no objections to the application having regards to the impact upon surrounding residents and character and appearance of the area.

Affordable Housing

48. 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”.
49. The County Durham Strategic Housing Market Assessment (SHMA) report was updated in 2016 and supplies the evidence base for 10% affordable housing across the East Durham Delivery Area (on sites of 15 dwellings/0.5 hectares), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets.
50. The SHMA and the NPPF therefore provide the justification for seeking affordable housing provision on this site, which should be secured via S106 agreement.
51. The applicant has agreed to provide 10% affordable housing on site in the form of 2 units and therefore the proposals are considered to accord with the requirements of the SHMA and the NPPF.

Ecology and Trees

52. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 make it an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a license from Natural England.
53. Accordingly, the Regulations have established a regime for dealing with derogations in the form of a licensing system administered by Natural England.
54. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty to have regard to the requirements of the Regulations/Directive in the exercise of its functions. A Local Planning Authority failing to do so would be in breach of the Regulations. Specifically, where a likely interference to a European Protected Species is identified, the LPA must consider whether a developer might obtain an EPS licence from Natural England, which in turn calls for an application of the derogation tests. The derogation tests are threefold as follows:
- That there is no satisfactory alternative
 - That the population of the species will be maintained at a favourable conservation status in their natural range
 - That there are imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance to the environment

55. The applicant has submitted a habitat survey which has been assessed by the Council's ecology officers. The survey has found that no bat roosts are present on site and therefore the demolition of the building will not affect bats or a bat roost. However it is suggested that mitigation is put in place in the form of roosting areas to be built into the walls of two of the properties. In addition to the demolition and vegetation clearance should be undertaken outside of the bird nesting season of mid-March to August inclusive, and a strip of scrub and woodland habitat of at least 15m in width must be retained along the southern boundary of the site to provide an ecological buffer between the development and the Local Wildlife Site beyond.
56. It is considered that the proposed development will bring about overriding economic and environmental benefits. In particular, the direct and indirect economic benefits of housing development are well documented and the removal of a derelict building will result in a significant visual improvement to the street scene. 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. 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. A Bat Survey of the site has been submitted with the application. This survey concludes that no bat roosts were found and the scale of the proposed works will ensure that there will be no fragmentation of bat habitat and no isolation of bat populations. The County Ecologist has not raised any objections to the findings of the survey. Consequently 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. In particular, as there is unlikely to be a disturbance of a European Protected Species, it is not necessary to apply the derogation tests to come to a view on whether a licence may be granted. A condition is recommended for the mitigation strategy within the Bat Survey to be adhered to.
57. Subject to this condition, it is considered that the proposals would be in accordance with saved policy 18 of the Local Plan and part 11 of the NPPF.
58. In addition to the assessment of protected species, the Local Planning Authority must also consider impacts on designated wildlife sites in the vicinity of the proposed development.
59. 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.
60. In order to take pressure from additional visitors away from the coastal designations of significant importance, the applicant has proposed to provide a financial contribution toward the provision and upgrading of footpaths at the former Easington Colliery pit site, designed to attract more visitors by providing an enjoyable natural environment for recreation as an alternative to the designated sites on the coast. This contribution is to be secured through a S106 Agreement.

61. As such, it is considered that the proposed development would be in accordance with saved policy 18 of the District of Easington Local Plan and part 11 of the NPPF, both of which seek to protect and enhance biodiversity and the natural environment.
62. In addition to the above, it is noted that there are a number of protected mature trees and in and around the site which are of high amenity value in the street scene. The Council's Tree Officer is satisfied that the proposed scheme would not have an adverse impact on the protected trees. Plans have been amended to show properties moved away from trees to ensure pressure to fell them in future is limited. Given the proximity of the proposed development it is considered that a further condition should be imposed which requires these trees to be protected during construction. Subject to this condition it is considered that the proposals would be in accordance with part 11 of the NPPF.

Letter of Objection

63. As mentioned above, one letter of objection has been received in response to the consultation process. The main areas of concern are that the proposals would lead to overlooking, a loss of privacy and an overbearing impact. Other concerns are that the development would lead to a loss of wildlife, highway safety concerns and that there is no need for new housing in this area.
64. It is not considered that there would be any adverse impact on residential amenity given the significant distance to nearby properties and the fact that the development would be well screened by existing tree cover. Highways and ecology officers have no objections to the proposals subject to the appropriate mitigation and the development of housing on a derelict brownfield site within a sustainable location is considered to be appropriate in planning terms.

Section 106 Contributions

65. As this is a major residential development of 19 houses, financial contributions are required towards other local functions and facilities within the vicinity of the site. A contribution of £9,500, based on the sum of £500 per dwelling, is therefore required towards the adequate provision for children's play space and outdoor recreation space in the electoral division. These contributions are to be secured through a Section 106 legal agreement. The 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 and would be in accordance with policy 66 of the local plan and requirements detailed in the NPPF.

CONCLUSION

66. The National Planning Policy Framework advises that there should be a presumption in favour of sustainable development such as this identified allocation which is a brownfield site within the settlement boundary of Easington. Officers consider that the development constitutes sustainable development; the key theme running through the NPPF, the principle of the development can therefore be accepted.
67. Several other key considerations apply to the site other than the principle of the development namely matters of highways, impact on the character and appearance of the area, affordable housing, ecology and trees, all of which have been fully considered as part of the application process.

68. The scheme is considered to be in a sustainable location for residential development which would involve the removal of a derelict building. The proposal would provide affordable housing as well as enhanced play and footpath provision, improving the recreational offer for existing and future residents and on this basis it is recommended that the application is approved.

RECOMMENDATION

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

- i. 10% affordable housing on site.
- ii. £9,500 towards play and recreation in the Electoral Division of Easington
- iii. A contribution of £10,600 towards the provision and upgrading of footpaths at the former Easington Colliery site.

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:

Proposed site layout RES 417 200-01
Site Sections RES 417 200-03
A1IL 765 Housetype
A1L 765 Type A Housetype
A1L 796 Housetype
A1L 881 Housetype
A1L 986 Housetype
A1L 986 Housetype Type A
N491-PP-0001-A Landscape Proposals

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.

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

Reason: To prevent the increased risk of flooding from any sources in accordance with the NPPF.

4. The development hereby permitted shall not commence until a scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following, unless the Local Planning Authority is satisfied that the site is suitable for the proposed use and dispenses of any such requirements, in writing:

Pre-Commencement

- (a) A Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.
- (b) If the Phase 2 identifies any 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.

Completion

- (c) 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.

- 5. Notwithstanding any details of materials submitted with the application no development shall commence until details of the external walling, roofing materials 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 saved Policies 1 and 35 of the Easington District Local Plan and part 11 of the NPPF.

- 6. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of the amenity of the area in accordance with saved policy 35 of the District of Easington.

7. The development hereby approved shall be carried out in accordance with the submitted tree protection measures and in accordance with BS 5837 2012.

Reason: In the interests of the appearance of the area and to comply with part 7 of the National Planning Policy Framework.

8. No development shall take place unless in accordance with the mitigation detailed within the contents of Section E of the bat survey by Dendra Consulting Ltd dated 19.8.2015 and section 6 of the Ecology Report by Dendra Consulting Ltd dated 17.6.2015.

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

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

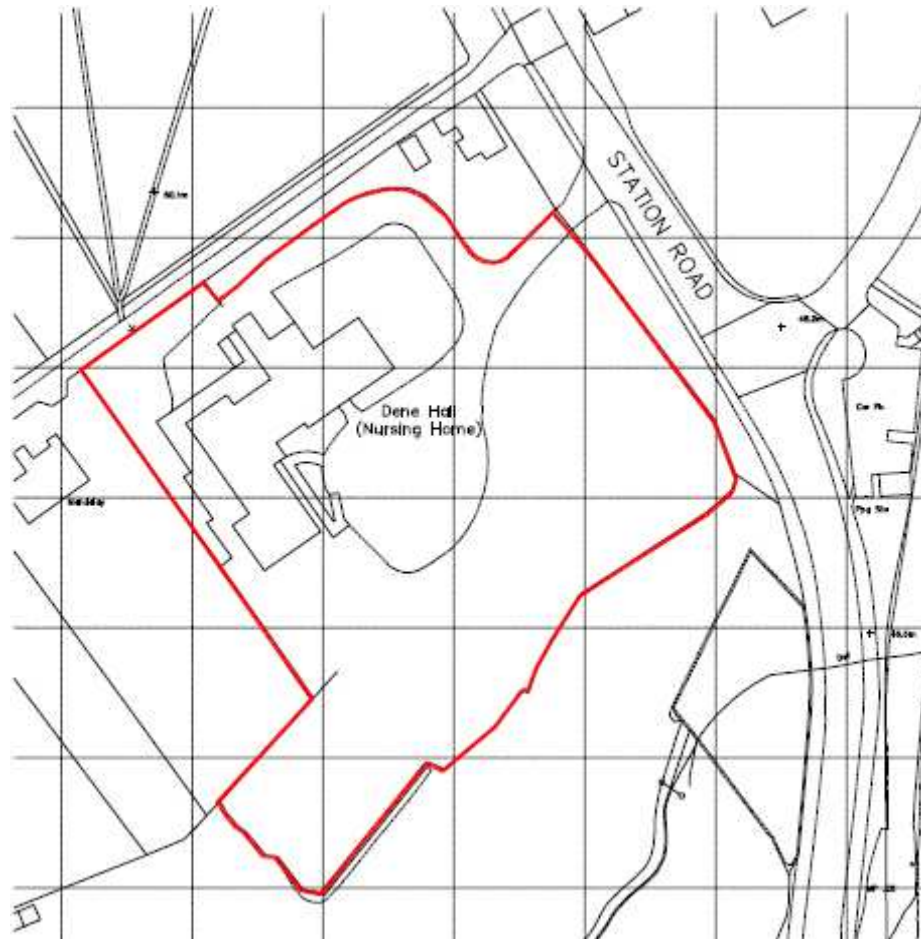
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Statutory, internal and public consultation responses

District of Easington Local Plan



Planning Services

Proposed Erection of 19 dwellings at the former Dene Hall Care Home, Easington Colliery

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Comments

Date July 2016

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/16/01202/FPA Refurbishment and reconfiguration of the restaurant drive thru lane and patio area to include extensions totalling 24.8sqm, incorporating associated works to the site.
FULL APPLICATION DESCRIPTION:	Alterations to elevations which include the installation of an additional booth to accommodate the new fast forward lane. Existing booths to be replaced with new. Relocated fascia signage.
NAME OF APPLICANT:	McDonalds Restaurants Ltd McDonalds Restaurants Unit L
ADDRESS:	Arnison Retail Centre Pity Me Durham DH1 5GB
ELECTORAL DIVISION:	Framwellgate and Newton Hall Jennifer Jennings Planning Officer
CASE OFFICER:	Telephone: 03000 261057 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to McDonalds Restaurant located at the Arnison Retail Centre Pity Me. The site consists of a detached building incorporating a restaurant area, drive through, parking area and a detached storage building. Surrounding the application site other commercial properties are located, with the distributor road, Rotary Way located to the north. The nearest residential developments of Hag House and 1-5 Harvest View are also located to the North, approximately 70m away. The distributor road also represents the boundary of the North Durham Green Belt.

The Proposal

2. The proposal seeks to provide a front of house extension on the east elevation, equating to a 24.8 metres square increase. The extension would match the existing building in terms of design and materials and would be the same height as the main building. Other alterations consist of the addition of a booth window on the north elevation intended to allow improved circulation through the drive through section of the site. On the north elevation, existing drive through booths would be replaced with new booths and additional timber cladding would be added. Patio furniture would be removed from the front of the building and new block paving installed. Three car parking spaces would be lost.

3. The application is presented to Committee at the request of the local Member because of concerns about litter and parking. These issues are considered below.

PLANNING HISTORY

4. Permission granted in 1997 for the erection of single storey extension to the side of existing restaurant building to provide managers office. In 2001 permission was granted for a single storey building to accommodate an automatic teller cash machine within the grounds of McDonalds.
5. Permission was granted in 2005 and 2009 for further extensions and alterations to the existing restaurant building. In 2012 a further permission was granted for the refurbishment of the existing restaurant including the addition of cladding, alterations to roof and erection of single storey extension and erection of replacement detached storage building.
6. Various advertisement consents were approved in 2009 and 2012, although two advert applications for totem signage were refused in 2009. Advert consent has recently been granted for the relocation of 3 no. existing fascia signs.

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. 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. 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;

9. *NPPF Part 1 – Building a Strong, Competitive Economy* – reinforces the Government’s commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – ‘significant weight’ is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.
10. *NPPF Part 4 – Promoting Sustainable Transport*. Notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.

11. *NPPF Part 7 – Requiring Good Design*. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
12. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
13. *NPPF Part 9 – Protecting Green Belt Land* - The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

NATIONAL PLANNING PRACTICE GUIDANCE:

14. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
15. *Design* - The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

LOCAL PLAN POLICY:

16. The following are those saved policies in the City of Durham District Local Plan relevant to the consideration of this application:
17. *Policy E14 – Trees and Hedgerows* – sets out that development proposals should retain important trees and hedgerows wherever possible
18. *Policy T1 – General Transport Policy* – requires all developments to protect highway safety and/or not have a significant effect on the amenity of occupiers of neighbouring properties.
19. *Policy T10 – Parking Provision* – sets out that off street car parking should not exceed 1.5 spaces per dwelling to promote sustainable transport choices.
20. *Policy S9A – Arnison Centre* – sets out that development which consolidate the role of the Arnison Centre to meet the needs of residents on the western side of the City will be encouraged providing it does not undermine the role of the City centre and would be acceptable in terms of road safety and highway capacity.

21. *Policy S10 – Food and Drink* - sets out that within settlement boundaries development for A3 food and drink uses will be permitted where there are no adverse effects on the amenities of neighbouring occupiers, achieve satisfactory access arrangements and is in scale with the character of the area.
22. *Policy Q5 – Landscaping* – requires that development proposals provide a high standard of landscaping on site.
23. *Policy U5 – Pollution Prevention – General* – sets out that permission would not be granted for development that would generate pollution if it would have an unacceptable adverse impact upon the quality of the local environment, or the amenity of nearby adjoining land and property.

RELEVANT EMERGING POLICY:

24. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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:

25. Northumbrian Water have no comments to make.
26. *Highways* – County Highways Engineer considers that the minor extension proposed would not warrant a request for additional parking to be provided, and that the minor loss of parking is acceptable in the context of the scheme as a whole. The adjacent Arnison Centre car park has a substantial amount of parking provision and can be easily accessed by patrons of the McDonalds Restaurant if required. The amendments proposed for the drive through are intended to assist in serving and thus moving vehicles more efficiently through the site. This would help towards alleviating any issues of queuing vehicles waiting on the main access road to turn into the site, when demand for the drive through is high which would be beneficial in highway safety terms.
27. *Environmental Health* – The Environmental Health Officer assessed the environmental impacts of the application and considered that the proposals would not cause any environmental issues to nearby premises. They offer no adverse comments in terms of the potential of the development to cause a statutory nuisance, as defined by the Environmental Protection Act 1990.

PUBLIC RESPONSES:

28. Fourteen neighbouring premises and properties were consulted by direct mail and a site notice posted on site. No letters of objection or comment have been received from the general public. However, correspondence from the local ward member was received expressing an objection to the proposals and calling the application to Committee. The objection raises the following issues:
- The proposals would see a further increase in overall drive through usage, however despite increase in turnover, McDonalds have done nothing to address car thrown litter on Country Lanes around the area, specifically but not exclusively Chester Low Road and Potterhouse Lane, which have become a dumping ground for thousands of pieces of McDonald's rubbish. One customer may throw out a dozen or more individual items of litter on each trip.
 - If McDonalds wishes to increase customers at the site, they must take heed of the overwhelming disgust that so many residents have when observing mess strewn across a wide area of the County.
 - McDonalds is asked to provide resources to educate those who seek to litter. They should provide funding towards the cost of clean-up instead of expecting the taxpayer of County Durham to foot the bill.
 - The objection is on the grounds that the proposals would increase usage of the drive through with no measures to mitigate the negative effects on the environment and it is requested that educational and litter pick funding is provided direct to the Council to address the issue on the country lanes.
 - Concerns raised with regards loss of car parking space rather than an increase in parking space that would be necessary due to increased turnover. Some customers choose to eat in the car park in their cars and at busy times the car park is full, so without additional car parking space, increased problems may occur with queues building up getting into the site.

APPLICANTS STATEMENT:

29. The existing McDonald's Restaurant operates with both a restaurant and drive thru facility. Current trading levels are; 45% within the restaurant and 55% from the drive thru. The proposed works under this current planning application relate to the improvement of the existing operation of the restaurant and are not intended or predicted to increase the footfall of the restaurant.
30. The proposed additional drive thru booth will improve waiting times within the drive thru lane and will contribute to an overall improvement in the restaurants overall efficiency. Whilst the dining area will marginally enlarge, this will be outweighed by the reduction in size of the external seating area at the front of the store. As a result, more customers will dine inside of the restaurant, reducing the risk of any litter being blown away by the wind.
31. McDonalds Restaurants Ltd are committed to contributing to and engaging with local communities. McDonald's staff currently undertake daily litter patrols within the wider retail park and surrounding area. The staff pick up both McDonald's litter and all other forms of litter dropped by customers of all other retailers within the wider retail park. To ease any concerns of local residents, McDonalds have proposed to install 4 no. additional bins within the car park to ensure every customer has the opportunity to dispose of their waste in a proper manner.
32. In conclusion, the proposal is for the refurbishment of the existing restaurant and is not expected to result in the increase in trade of the premises. The works are intended to improve the operation of the restaurant and will have a negligible impact upon litter. The Environmental Health Officer has raised no objections to this application. McDonald's Restaurants Ltd have positively engaged with the local authority to outline their existing litter precautions and are putting in additional measures to further reduce litter concerns.

PLANNING CONSIDERATIONS AND ASSESSMENT

33. 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 the development, the potential impact upon the visual amenity of the surrounding area, including relating to the environmental issue of litter, and the impact of the proposal on car parking.

Principle of Development

34. The application site is located within the defined limits of the Arnison/Mercia Retail Centre as set out on the Local Plan Proposals Map. The written justification relating to policy S9A of the Local Plan identifies that extensions to existing units may be appropriate to enable the district centre to sustain its function as a location for convenience retailers serving the needs of residents of this part of Durham City.

35. The proposals seek to erect a relatively small extension to the front of the premises on the eastern elevation, as well as create an additional drive through booth on the north elevation, whilst refurbishing existing booths in order to improve the general operations on site. All works would be well contained within the site, and would add no more than eight per cent to the overall footprint of the building. In this respect the proposals are considered to accord with the requirements set out in policy S9A and are considered acceptable subject to other considerations detailed below.

Visual amenity of the surrounding area

36. Policy S10 requires that developments for A3 use should be in scale and character with their surroundings. In consideration of the details submitted and sample materials received, the proposed alterations and extension are deemed to reflect the character of the existing building in terms of design and proposed materials. The proposed extension would be located on an existing forecourt entrance to the building which currently has outdoor seating in place. Part of this would be lost to the extension but this would not negatively impact on the general appearance of the building or the immediate surroundings, or create negative visual impacts when viewed from the access road running through the Arnison Centre complex. In addition a substantial landscape buffer exists along the northern boundary of the site and views into the site from this side would be sufficiently screened, helping to ensure the visual amenity of the adjacent Green Belt is not impacted by the proposals.

37. Policy S10 further requires that proposals should not have any adverse effects on the amenities of nearby occupiers. Policy U5 requires that where development may generate pollution, it must not have an unacceptable adverse impact upon the quality of the environment. The applicant states that the proposals are not intended to accommodate an increase in capacity but rather better align operations on site. In terms of the general functionality on site, given that it is a well-established business, it is not expected that the proposals would create any new or negative impacts on neighbouring occupiers.

38. Issues regarding litter emanating from the restaurant chain, however, have been brought up as a matter of concern, not just in the immediate surroundings of the site or its perimeter, but also along country lanes at a distance from the site. As recompense for this problem, it has been suggested by the local member that McDonalds should pay funding direct to the Council to provide for litter picking and education to alleviate and prevent continued problems of littering.
39. In response McDonalds have clarified that they have a 'Trash Walk' strategy in place which involves an early morning walk around the immediate vicinity picking up litter, and additional walks around a wider area every 30 minutes, including a section of the Rotary Way distributor road to the north of the site. It is also proposed to include four additional bins within the car park area as part of the proposals.
40. The proposed extension is relatively modest in size and according to the applicants is not intended as an expansion of the business in terms of visiting members of the public, whilst the additional booth is claimed to allow smoother running of the drive through facility. Although this would presumably improve the efficiency of the drive through facility, it is difficult to conclude that the proposals would directly result in an increase in litter in the immediate or wider area. In any case there is no scope to condition any permission granted to require a regular itinerary of litter pick up, particularly where this would involve areas well beyond the perimeter of the site. Such a condition would not meet all of the six tests for planning conditions as stated within paragraph 206 of the National Planning Policy Framework. Specifically, it would not be considered reasonable as the applicants cannot be expected to control the behaviour of customers away from the premises; and it would not be enforceable as it would not be possible to prove that the litter emanated from these specific premises. Additionally, the proposals are not expected to result in an increase in litter, over and above what may already exist. In this case a condition seeking to deal with litter would not be considered appropriate. It is intended however to apply a condition requiring the provision of additional litter bins as part of the proposal on site. For the same reasons, it would not be appropriate to require the Applicant to make a financial payment to the Council to provide for litter picking and education. The mechanism for a financial payment to the Council in connection with a planning application is by way of a Section 106 Obligation. However, the Community Infrastructure Levy Regulations 2010 impose a threefold test for imposition of such obligations, namely that they are 1) necessary to make the development acceptable in planning terms, 2) directly related to the development and 3) fairly and reasonably related in scale and kind to the development. It is not considered that such an obligation would pass any of these 3 tests. The wider issue of litter in country lanes is not for the planning system to address. It is a social issue.
41. Overall the proposed scheme is considered to relate acceptably to its surroundings in accordance with the requirements set out in policy S10, aided by the existing mature landscape buffer ensuring it would not create any new impacts on the adjacent Green Belt area. In addition, the proposals are not expected to directly result in an increase in litter in the immediate and wider area and as such would not have an unacceptable adverse impact upon the quality of the local environment or upon the amenity of nearby adjoining land and property. Environmental Health officers have assessed the application in relation to all environmental impacts and do not consider that the proposals would cause any environmental issues to nearby premises. Subject to the imposition of a condition requiring the provision of additional litter bins, the proposals accord with the requirements set out in policies S10 and U5 of the District Local Plan.

42. The proposals would result in the loss of three car parking spaces in order to provide additional waiting areas for cars associated with the drive through facility. In general the new layout is intended to improve operations on site, which in turn would ensure that traffic build-up of cars entering the site would be prevented from causing obstruction on the main access road through the Arnison Centre. The County Highways Engineer has assessed the proposal and is satisfied that the setup is beneficial to the overall traffic management on the site and considers that the loss of car parking spaces is negligible given the availability of car parking across the whole of the Arnison Centre retail site. In this respect the proposals are considered to accord with the requirements set out in policies S9A and T1 of the District Local Plan.

CONCLUSION

43. The proposed scheme has been considered against the policies identified in paragraphs 7-23 listed above. The proposals intend to marginally increase the size of the restaurant and as such, would have a limited and therefore acceptable impact on the character and appearance of the surrounding area, including the visual amenity of the adjacent Green Belt. It is not expected that the proposals would result in a direct or significant increase in customers attending the site nor would it directly result in an increase in litter in the vicinity or wider area. In this respect the proposals would not have an adverse effect on the surrounding area or on the amenities of neighbouring land users. In addition, it is considered that the proposals do not raise any issues in terms of highway safety.
44. Overall there is not considered to be any material considerations, which indicate a decision should be otherwise than in accordance with the Development Plan and therefore the application is recommended for approval.

RECOMMENDATION

45. That the application be **APPROVED** subject to the following conditions/reasons:

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan Reference No. Location Plan received 14 April 2016; 6511_AEW_0479_0004 rev A Proposed site plan received 14 April 2016; 6511_AEW_0479_0050 rev A Proposed general arrangement received 14 April 2016; 6511_AEW_0479_0005 rev A Existing and Proposed elevations received 14 April 2016; 6511_AEW_0479_0002 Block Plan received 14 April 2016; Design and Access Statement dated April 2016; Sample of timber cladding 'Trespa meteon Italian Walnut' received 27 June 2016.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy S10 of the City of Durham Local Plan 2004.

3. Prior to the commencement of the development details of the design and locations of additional litter bins to be provided outside the premises shall be submitted to and approved in writing by the Local Planning Authority. The litter bins shall be provided in accordance with the approved details prior to the development hereby approved being brought into use.

Reason: In the interests of the amenity of the area in accordance with Policy S10 and U5 of the City of Durham Local Plan 2004.

4. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building in terms of colour, texture and size, apart from the proposed area of timber cladding identified on plan reference 6511_AEW_0479_0005 rev A Existing and proposed elevations.

Reason: In the interests of the appearance of the area and to comply with S10 of the City of Durham Local Plan 2004.

STATEMENT OF PROACTIVE ENGAGEMENT

46. The Local Planning Authority in arriving at the decision to approve the application has actively engaged with the applicant to secure a positive outcome in accordance with the Local Plan and the NPPF.

BACKGROUND PAPERS

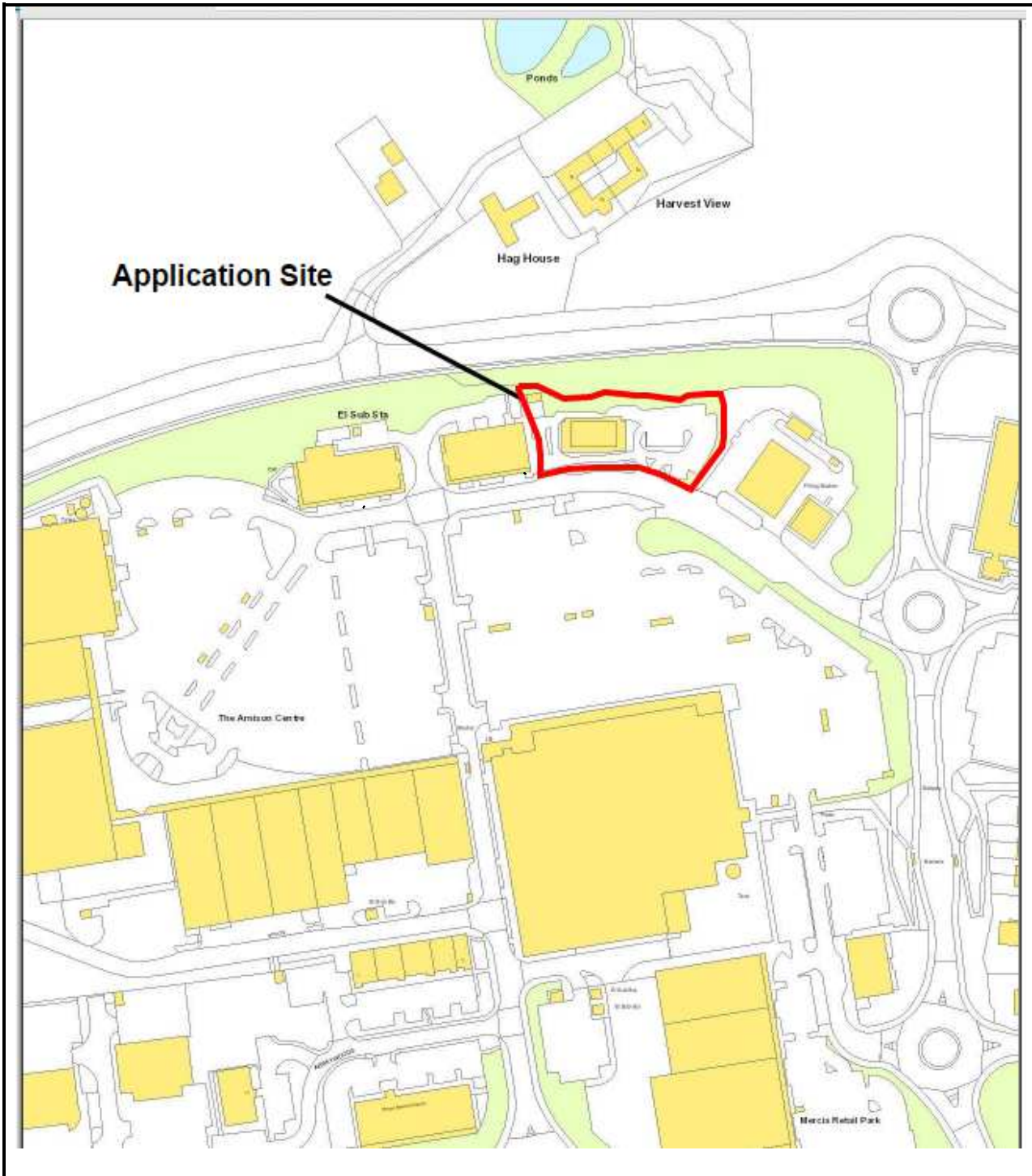
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Durham City District Local Plan 2004 (saved policies 2009)

Statutory and public consultation responses



Planning Services

McDonalds Restaurants Ltd, Arnison Retail Centre, Pity Me, Durham

Application Number DM/16/01202/FPA

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Date

12 July 2016

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01389/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing semi-detached dwelling and erection of 2 new dwellings.
NAME OF APPLICANT:	Mr A Blair
ADDRESS:	4 St Leonards, North Road, Durham, DH1 4NH
ELECTORAL DIVISION:	Neville's Cross
	Lisa Morina
	Planning Officer
CASE OFFICER:	03000 264877
	lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a two-storey semi-detached residential property located within the northern part of the Durham (City Centre) Conservation area. The south boundary of the site is formed by the grounds of St Cuthberts Church which is a grade II listed building with residential properties being located to the west and north of the site. To the east lies Framwellgate Peth one of the main access routes into Durham City Centre.

The Proposal

2. This application seeks the demolition of this semi-detached property and the erection of a pair of semi-detached properties.
3. The proposal would result in two three bedroom dwellings being created on a similar footprint to the adjoining semi which has an existing extension. The proposal has a slightly larger side extension by around 0.5m and has a flush roof line as compared to the neighbour which is set down. The materials and window designs proposed are similar to the existing dwelling and that of the adjoining neighbour with existing heads and sills replicated on the proposal.
4. The application is being referred to the planning committee at the request of Cllr Holland and Cllr Martin due to its location within the Conservation Area and the changes proposed.

PLANNING HISTORY

5. There is no relevant planning history on this site.

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 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.
10. NPPF Part 7 – Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
11. NPPF Part 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. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Development which will lead to substantial harm or loss of significance of a designated heritage asset, permission should be refused, unless the harm or loss is necessary to achieve substantial public benefits.

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

12. Policy E6 (Durham City Conservation Area) sets out the Council's aim to preserve the character, appearance and setting of the Durham City Conservation Area by ensuring high quality design.
13. Policy E22 (conservation Areas) sets out that the authority seeks to preserve and enhance the character and appearance of the conservation area by ensuring that development proposal should be sensitive in terms of siting, scale, design and materials where appropriate reflecting existing architectural features
14. Policy H2 (New Housing in Durham City) sets out that new housing would be acceptable within the City Centre providing it does not contravene policies E3, E5 and E6 and the site is not allocated for alternative uses.

15. Policy Q1 (Design) sets out that the layout and design of all new development should take into account the requirements of users including personal safety and crime prevention and the access needs of everybody including people with needs of disabilities.
16. Policy T1 (General transport Policy) requires all development to protect highway safety and/or have no significant effect on the amenity of occupiers of neighbouring properties.
17. Policy T10 (Parking – General Provision) states that vehicles parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
18. Policy Q9 (Alterations and Extensions to Residential Properties) state that extensions will only be approved when they met a set of specific criteria for example, including impact on residential amenity of neighbours and impact on streetscene.

RELEVANT EMERGING POLICY

The County Durham Plan

19. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. Northumbrian Water offers no objection to the proposal.
21. County Highways Authority has not offered any objection to this proposal.

INTERNAL CONSULTEE RESPONSES:

22. The Councils Contaminated Land Team have confirmed that no objection is raised subject to the addition of a suitably worded condition.
23. The Ecology Team have confirmed that the supplied Bat Risk Assessment by V Howard is sufficient to inform this proposal and that should permission be granted the contents of section 4 (Mitigation) of the report should be conditioned.
24. Design and Conservation have offered no objections on heritage or design grounds.

PUBLIC RESPONSES:

25. The application has been advertised with a press notice and on site by way of a site notice and neighbouring residents were also notified individually of the proposed development. At the time of report preparation, three letters of objection have been received with the following comments:

- The building is of a sound construction so no need for its demolition
- The proposal is within a conservation area, adjacent to the historic church of St Cuthberts in a green belt location and the changed appearance and significance of the heritage should be a primary consideration
- When purchasing property/extending property, the Council informed that any alterations made had to be sympathetic to the surrounding area and this proposal is in no way being sympathetic to the surrounding area.
- The proposal will drastically alter the character of the building and the adjoining/adjacent properties.
- The party wall act will be contravened as agreement from the adjoining owners has not and will not be obtained. Work is already ongoing.
- The proposal also encroaches onto the existing Church wall.
- The proposal creates a cramped nature.
- The proposed block plan shows that the boundary will encompass a footpath which is the entry footpath to my rear garden and the boundary cannot be moved in the manner proposed.
- The proposal will cause major disturbance to the adjoining neighbour and there is already signs of subsidence and concern raised that the proposal will cause structural defects to the property.
- The parking spaces will cause nuisance to no's 1 and 2 why not just make use of the spaces to the front.
- There has already been issues with the builders parking in the lane blocking access which is a health and safety issue.
- During building work at no. 3, it was requested that textured render and brick branding beneath was incorporated as this was a characteristic of the properties this should meet the same requirements.

APPLICANTS/AGENTS STATEMENT:

26. The brief is to partially demolish the existing semi-detached 3 bedroom dwelling and rebuild 2 new 3 bedroom houses within the site, with associated vehicle parking to the rear serviced from the existing access road. The proposal will form 2 new 3 bedroom dwellings attached to the adjacent dwelling effectively making a terrace of three houses.

27. The design and detailing has been informed by the materials on the existing dwelling and adjacent property, taking the form of brick work to up to first floor level on the front and gable elevations with render above. The rear elevation will be full brickwork. Furthermore the brick detailing to dentil courses, and the corners of the new building will be formed from 4 course brick work quoins again to match the adjacent building.

28. The new windows will be white double glazed UPVC windows and doors to match the surrounding buildings, with heads and sills to match the adjacent semi-detached property. The roofline will repeat the hipped end of the existing and adjacent buildings with a profiled tile roof.

PLANNING CONSIDERATIONS AND ASSESSMENT

29. 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 the development, the impact on the residential amenity of the neighbouring properties, highway safety issues, impact on the amenity of the area and ecology issues.

Principle of the Development

30. The proposal will result in the redevelopment of brownfield land following the demolition of an existing dwelling and is considered to form part of the built up area of the settlement of Durham which is considered to be in a sustainable location being within close walking distance of Durham City Centre, the train station and local bus routes.

31. Given the above, it is considered that the principle of development is acceptable in this instance in accordance with policy H2 of the City of Durham Local Plan subject to other criteria being met.

Impact on residential amenity

32. It is considered that the proposal would not result in a significant detrimental impact on the residential amenity of the surrounding residents.

33. Separation distances in excess of 21m will remain between the proposal and the neighbours to the rear therefore; the amenity of these neighbours would not be adversely impacted upon.

34. The new dwellings would result in a development beyond the existing rear two-storey building line of the adjoining neighbour with this part of the proposal being around 2.9m beyond the two-storey building line. An existing single-storey projection is in place at ground floor of this neighbour. Given the existing layout of the neighbouring property and the 2.9m projection beyond their elevation, it is not considered that a significant loss of amenity would occur to this neighbour.

35. No overlooking issues would occur given no windows are proposed in the side elevation facing this neighbour. A condition will be added for no additional windows/doors to be added to the elevation facing towards this neighbour.

36. The proposal given the introduction of an additional dwelling would result in additional movements of people and vehicles to and from the site. However, this is not considered to be at a level that would be to the detriment of the existing residents.

37. There are no other neighbours which would be affected by this proposal.

38. The application is therefore considered an appropriate addition in relation to policy Q9 of the Local Plan with regards to impact upon amenity of adjoining neighbours.

Highway Safety Issues

39. The Highways Officer has offered no objection to the scheme as the street falls within the Durham City Parking Zone and as such parking is considered to be satisfactorily controlled. Given this it is not insisted that parking is provided for these properties.

40. The Highways Officer has confirmed however that access to the parking spaces to the rear could be difficult and asked for the applicant to be made aware that no new dwelling built after the introduction of the controlled parking zone is eligible to apply for permits to park within it. This would apply here to both of the proposed new dwellings. This will be added to the decision as an informative if permission is granted.
41. Concern has been raised over the blocking of the access lane and the potential for neighbours to be able to access their property. This cannot be afforded weight in the consideration of this application. Any such future obstruction of access would be a matter for the police.

Impact on the visual amenity of the area.

42. As the property is located within the Durham (City Centre) Conservation Area the application should be assessed against Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the proposal to either preserve or enhance the character and appearance of the Conservation Area.
43. Concern has been raised that the proposal would not be sympathetic to the surrounding area given its location within the conservation area, and the historic church adjacent to the site; the demolition of a sound building and its green belt location and that it will alter the character of the adjoining/adjacent properties. These issues will be discussed in detail below.
44. The proposed demolition of the dwelling would be visually prominent within the Conservation Area by virtue of its roadside position on a key approach into the city centre where it is set forwards from the adjacent church which is a listed building. The existing dwelling however, is of limited merit architecturally and aesthetically and has no historic interest, therefore, the complete removal of this neutral element would be considered acceptable. The proposal is also not located within the green belt area.
45. The demolition element therefore is not considered to have a significant detrimental impact on the significance of the conservation area and the setting of the Grade II listed Church of St Cuthbert to the south as it is considered to preserve the existing character and appearance.
46. With regards to the new build element the two new properties would be contained within the same residential curtilage as the existing property and in respect of the front elevation, they would respect the existing frontage building line, and would be comparable in terms of general size and scale. Some lateral spread would occur but space is maintained between the gable elevation and the boundary stone wall to the churchyard.
47. To the rear the building form and footprint would be expanded compared to the existing situation but this is not considered to result in an overdevelopment of the site.
48. In addition to this, the design of the property reflects the existing dwellings incorporating existing detailing therefore, the design is considered to reflect the residential character and appearance of the locality.

49. Taken all the above into account, it is considered that the proposal would not result in a significant negative impact on the visual amenity of the streetscene or in turn the significance and setting of the Conservation Area in which it is sited as well as the Grade II listed building adjacent to this site, as the impact is considered to be negligible. As the impact is neutral, the proposal would preserve the character and appearance of the Conservation Area.

Ecology Issues

50. The Ecology team have commented on this application and have raised no concerns providing a condition is added for the works to be carried out in accordance with the method section of the report.

Other Issues

51. The applicant will be made aware of their requirements under the party wall act as an informative on the planning permission, however, this is a separate civil issue between the applicant and the neighbour and is not a material planning consideration in the determination of this application.

52. The block plan has been amended to alter the red line of the property thereby removing the element over the rear access road.

CONCLUSION

53. The proposed development for the demolition of an existing dwelling and the rebuilding of two dwellings is considered acceptable in principle given its current use and brownfield nature of the site. The proposal is also considered to be in keeping within the existing area and is not considered to have a significant detrimental impact on the surrounding residents. It is considered to have a neutral impact on the character and appearance of the conservation area in which it is sited, in accordance with the requirements of local policies and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that development should preserve or enhance the Conservation Area.

54. Highway Safety is not considered to be an issue given the site's location within the Controlled Permit Zone.

55. As such, it is considered that the proposed development would be in accordance with saved policies E6, E22, T1, T10, Q1 and Q9 of the City of Durham Local Plan and parts 1, 4 and 12 of the NPPF.

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.

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

Plan Ref No.	Description	Date Received
00 REV A	Site Location Plan	3 June 2016
101 REV A	Proposed Plans and Elevations	10 May 2016
102	Existing and Proposed Site Plans	28 April 2016
103 REV A	Proposed Site Block Plan	3 June 2016
None	Heritage Statement REV A	27 May 2016
None	Bat Report Prepared by Veronica Howard, BSc (Hons), PhD, MCIEEM May 2016	17 May 2016

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with policies E6, E22, T1, T10, Q1, Q9 and H9 of the City of Durham District Local Plan.

- Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. 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 E6, E22, T1, T10, Q1, Q9 and H9 of the City of Durham District Local Plan.

- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no windows or other openings shall be formed in the side elevation of the rear projection facing north towards no. 3 St Leonards without the prior written approval of the Local Planning Authority upon an application submitted to it.

Reason - In order that the Local planning authority may exercise further control in this locality in the interests of the residential amenity of the neighbouring properties and to comply with policy Q9 of the City of Durham District Local Plan.

- Notwithstanding the details shown on the submitted application the works shall be carried out in complete accordance with Section 4 (Mitigation) of the Bat Survey Report Prepared by Veronica Howard, BSc (Hons), PhD, MCIEEM dated May 2016.

Reason - To conserve protected species and their habitat in accordance with Section 11 of the NPPF.

- The development hereby permitted shall not commence until a scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following, unless the Local Planning Authority is satisfied that the site is suitable for the proposed use and dispenses of any such requirements, in writing:

Pre-Commencement

- A Phase 1 Preliminary Risk Assessment (Desk Top Study) shall be carried out by competent person(s), to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.

(b) If the Phase 1 identifies the potential for contamination, a Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

(c) If the Phase 2 identifies any 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.

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 Part 11 of the National Planning Policy Framework.

7. 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 Part 11 of the National Planning Policy Framework.

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



Planning Services

Demolition of existing semi-detached dwelling and erection of 2 new dwellings at 4 St Leonards, Durham
 Application Reference: DM/16/01389/FPA

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Date
June 2016

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01494/FPA
FULL APPLICATION DESCRIPTION:	Two storey rear extension for a house in multiple occupation.
NAME OF APPLICANT:	Miss Anika Sarania
ADDRESS:	16 Whinney Hill, Durham. DH1 3BE.
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Susan Hyde, Planning Officer, 03000 263961 susan.hyde@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. **SITE:** The application site relates to 16 Whinney Hill, Durham. The property is a semi-detached dwelling in C4 use as a house in multiple occupation and has four first floor bedrooms. The site is located within the Durham City Centre Conservation Area.

Whinney Hill is located within the eastern part of the Conservation Area and is an elevated street climbing steeply from its Old Elvet-Green Lane junction to the north, terminating at the roundabout of Hallgarth Street, Stockton Road, and Shincliffe Road in the south. The area is characterised by inter-war semi-detached housing, originally local authority housing stock providing accommodation for the prison officers at HM Prison Durham which forms an abrupt end to the street. The properties are arranged in short blocks either lining the main street or in cul-de-sacs, and are typical designs of social housing of their time.

The property in question No 16 is positioned on the east side of the street at approximately mid-point forming part of the group of properties in front of Whinney Hill School. The property, like the others, is considered to be of limited interest historically and architecturally, but the overall street plan of varying topography with landscape features combine to generate a good quality distinctively suburban character which positively contributes to the Conservation Area. Furthermore, due to the streets rising nature and designed breaks within the building lines impressive views towards Durham Cathedral can be gained.

2. **PROPOSAL:** The planning application proposes to add a 2.8 metre deep two storey extension on the rear elevation of the property to extend the existing bedrooms but not add any new bedrooms so the number of bedrooms in the property remains 4. At ground floor level the extension is proposed to provide a dining area.

3. The application is brought before the Planning Committee at the request of Cllr David Freeman as residents have concerns that the extension will lead to two additional bedrooms for students and concerns about the impact of student living on the local community.

PLANNING HISTORY

4. 4/07/00721/FPA – Planning permission was refused for the erection of a two storey pitched roof extension to the rear of existing dwelling due to scale of the extension and the overshadowing on the neighbours property.
5. 4/07/00991/FPA - Erection of one and two storey pitched roof extensions to rear of existing dwelling.

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. 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.

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

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

11. Part 6 - Wide Choice of High Quality Homes

12. 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

County Durham Plan:

13. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

LOCAL PLAN POLICY:

14. LOCAL PLAN POLICY:

Policy E6: Durham (City Centre) Conservation Area.

Policy E22: Conservation Areas.

Policy H9: (Multiple Occupation/Student Households)

Policy H13: (Residential Areas - Impact upon Character and Amenity)

Policy Q9: Alterations and extensions to residential property.

Policy T1: Highway Safety.

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:

15. County Highway Officer- Raises no objections to the application.

INTERNAL CONSULTEE RESPONSES:

16. Design and Conservation- Raises no objections to the proposal subject to conditions.

17. Environmental Health Noise Team- raises no objections

PUBLIC RESPONSES:

18. The application was advertised by means of a Press and Site notice and by letter to neighbouring properties within the area. One response was received from Whinney Hill Residents Group. The main concerns raised are:

- a) Although the floor plan shows no increase in bedroom numbers there is likely to be 2 additional bedrooms created to form a 6 bedroom house in multiple occupation.
- b) Although the floor plan appears to be a family house the house is occupied by 4 students. (Planning Officers checked this with the agent and he has confirmed the house is occupied by 4 students as a house in multiple occupation.
- c) High concentrations of students have a detrimental impact on the local environment and social cohesion from additional noise, parties and late night activity. This disturbs residents sleep and enjoyment of their home and garden.
- d) There are elderly, young and working people living in the community that do not wish to be disturbed at night.
- e) Houses on Whinney Hill have restrictive covenants requiring them to be occupied only as family housing.
- f) The proposal is contrary to the Local Plan Policy, the Interim Policy on Student Accommodation and the National Planning Framework.

APPLICANTS STATEMENT:

19. The Agent acting on behalf of the Applicant was invited to submit a statement in support of this application. At the time of report preparation, no statement has been received

PLANNING CONSIDERATIONS AND ASSESSMENT

20. 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, layout and design, residential amenity and highway safety.

Principle of Development

21. Policy H13 of the City of Durham Local Plan states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. In addition paragraph 50 of the NPPF seeks to create sustainable, inclusive and mixed communities.

22. Policy H9 relates to the conversion and alteration of houses for multiple occupation. It states that such development will be permitted provided that adequate parking, privacy and amenity areas are provided, provided it will not adversely affect the amenities of nearby residents, provided it is in scale and character with its surroundings, provided it will not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock and provided it will not involve significant extensions or alterations.

23. An Interim Policy on Student accommodation is a publically available document that has been advertised and available for a year and was adopted by full Council on 13 April 2016 sets. This sets out how the issue of concentration of students will be considered in relation to HMOs in association with Policy H9. It states that in order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, applications for extensions to Houses in Multiple Occupation that result in additional bed spaces will not be permitted if more than 10% of the total number of properties within 100 metres of the application site are already in use as HMOs or student accommodation exempt from council tax charges.

24. Wider concerns over the habitation of property by students raised by the Whinney Hill Residents Group are noted. The application site currently has a C4 house in multiple occupation occupied by 4 students. It is located in a street that has a mixture of C3 dwellings and C4 houses in multiple occupation. Policy H9 seeks to ensure that HMO's will not become concentrated in an area to the detriment of the range and variety of the housing stock. The Interim Policy above expands on the interpretation of the concentration of students to specify it should not be above 10% of the housing stock. In this case the current proportion of student properties is 50%. As such the proportion of student properties is over that specified in the Interim Policy and this application should not increase the concentration of students. The interim policy also specifies that extensions should not result in additional bed spaces. In this case the planning application shows the number of bedrooms remains the same at 4 bedrooms. A condition is therefore proposed that retains the number of bedrooms to 4 in the property.

25. On this basis, the principle of the proposals is considered to be acceptable and in accordance with local policies.

Layout and Design

26. The existing semi-detached dwelling has not been extended and the application adds a 2.8 metre two storey extension onto the rear elevation. The extension is considered to meet the terms of Policy Q9 of the Local Plan in that it is pitched roofed, the design and scale is in keeping with the host property and it is set back from the neighbours property which reduces its impact on the residential amenity of the adjoining semi-detached property.

27. In design terms, in 2007 a 2-storey rear extension was refused due to the harm arising from its unbalanced design where part would have projected outwards beyond the side building line of the host building resulting in a feature out of character within the area and visible from the main street. A revised proposal was then approved for the erection of a part 1 part 2-storey pitched roof extension constructed flush with the side of the property but this has not been built. This current submission essentially maintains the same 2-storey element of the previous approval but extends the single-storey component upwards. This increased scale and massing would still result in an extension with sufficient subordination due to the inclusion of a lower ridge level and inward set from one side so that it would not encompass the entire rear elevation of the property. On the opposite side the extension is in alignment with the side elevation of the property.

28. The proposed extension would incorporate appropriate detailing such as the steepness of the roof pitch, the brick-on-edge banding, and the use of render to the upper floor, while the window sizes and proportions echo those within the main dwelling, and the materials proposed for use are specified to match; as such the design is considered sympathetic and acceptable.

29. In terms of the impact upon the conservation area, the 2-storey extension would be located to the rear of the property which has a good degree of concealment. The side elevation would be visible in the gap between the site and the neighbouring property but there are many similar examples of this in the area, and due to the thoughtful design it would not be considered visually intrusive in the context of the streetscape. The proposed development overall would be considered to make a neutral contribution to the character and appearance of the conservation area and heritage asset. As such the proposal would satisfy the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 by preserving the character and appearance of the Conservation Area.

Residential Amenity

30. The rear extension projects from the property by 2.8 metres with blank elevations on both side elevations and windows in the rear only. The impact on residential amenity is considered to be reasonable with the extension not introducing any overlooking onto the neighbouring property. The extension is set in from the adjoining property at no. 15 and as such the impact on the outlook from the habitable room windows is considered to be acceptable. One issue to note is that no. 17 to the north has two windows on the side elevation of their extension which appear to relate to a bathroom and an additional window into a kitchen. The bathroom is non habitable and the kitchen window has the benefit of a main window to the front and rear of the property. As such no objection is raised on residential amenity grounds.

Highways

31. Whilst there is no on-site parking in association with the property, it is in a location that has excellent access to public transport and within walking distance of the city centre itself. The Highways Section has raised no objections to the application and as such no concerns are raised in this respect.

Comments on Neighbours Objections

32. The objections raised by local residents are addressed in the main body of the report above. However an additional concern was raised that related to the properties having a covenant on them that prevents them from changing from a family dwelling to a house in multiple occupation. The covenant relates to separate legislation that is not part of the planning system and as such is not relevant to the determination of this planning application. A grant of planning permission would not override any legal covenant.

CONCLUSION

33. In conclusion the planning application proposes an extension that is in keeping with the character and appearance of the Conservation Area. Residential amenity is not considered to be detrimentally affected by the application. In relation to the mix of student houses and C3 properties this application proposes to retain the same number of bedrooms which is 4. As such in accordance with Local Plan Policy C9 and the Interim Policy on Student Accommodation it is considered that providing the number of bedrooms is retained as 4 there should be no additional concentration of students at this property. The application is therefore recommended for approval with a condition that restricts the number of bed spaces within the property to 4.

34. As a result it is considered that the proposed extension would not adversely impact upon the current levels of amenity enjoyed at the site or upon the designated conservation area and as such it is considered the development is in accordance with National and Local Planning Policy.

RECOMMENDATION

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

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 shall be constructed in strict accordance with the approved plans validated on the 10th May 2016 drawing no. R4088-3, R4088-1 and R4088-1 existing and proposed plans, elevations and floor plans and the submitted Heritage Statement.

Reason: To ensure a satisfactory standard of development in accordance with Policy H9, H13, E22, T10 and T1 of the City of Durham Local Plan 2004 and the Interim Policy on Student Accommodation.

3. The number of bed spaces in the property shall not exceed 4.

Reason: In the interests of providing a sustainable, inclusive and mixed community and to control the concentration of students in the Whinney Hill Area in accordance with Paragraph 50 of the NPPF, Policy H9 of the City of Durham Local Plan 2004 and the Interim Policy on Student Accommodation.

STATEMENT OF PROACTIVE ENGAGEMENT

38. 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

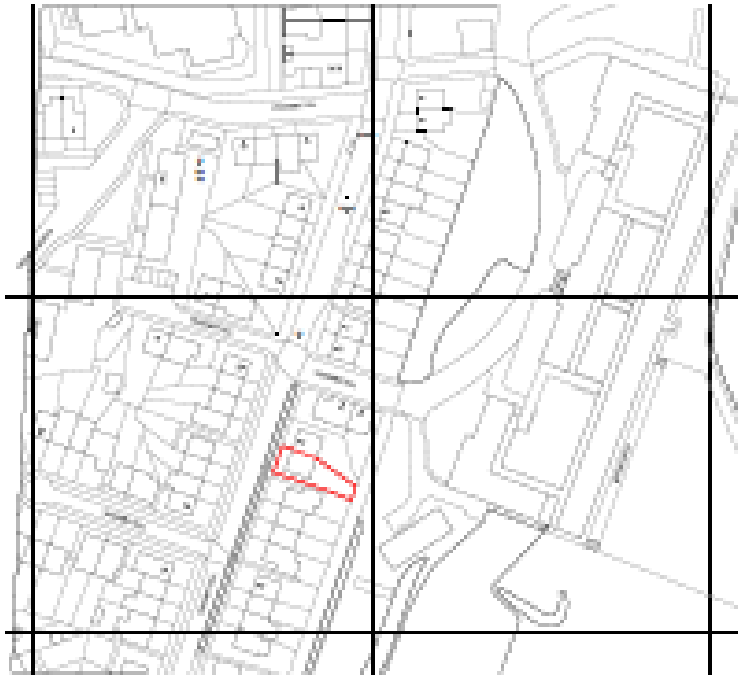
Submitted application forms, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

City of Durham Local Plan 2004

Statutory, internal and public consultation responses



Planning Services

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Two storey rear extension for a house in multiple occupation.

Comments

16 Whinney Hill, Durham, DH1 3BE

Date July 2016

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