



Area Planning Committee (Central and East)

Date Tuesday 13 December 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 8 November 2016 (Pages 3 - 26)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/15/02129/FPA - 3 Fram Well House, Diamond Terrace, Durham (Pages 27 - 42)
Demolition of existing building and proposed new build for student accommodation.
 - b) DM/16/02537/FPA - Land at Holly Street, Durham, DH1 4DE (Pages 43 - 62)
Construction of 60 bedroom student accommodation.
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
5 December 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 8 November 2016** at **1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors A Bell, J Clark, P Conway, D Freeman, S Iveson, C Kay, B Moir, J Robinson and K Shaw

Also Present:

Councillors J Bell, G Holland, N Martin and R Ormerod

1 Apologies for Absence

Apologies for absence were received from Councillors G Bleasdale, M Davinson, A Laing and J Lethbridge.

2 Substitute Members

No notification of Substitute Members had been received.

3 Minutes

The minutes of the meeting held on 26 September 2016 were confirmed as a correct record by the committee and signed by the Chairman, subject to an amendment to include apologies for absence from Councillor S Iveson. The minutes of the special meeting held on 11 October 2016 were confirmed as a correct record by the committee and signed by the Chairman.

4 Declarations of Interest

There were no Declarations of Interest.

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

a DM/16/02285/FPA - Kepier House, The Sands

The Senior Planning Officer, Barry Gavillet gave a detailed presentation on the report relating to the abovementioned planning application, a copy 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 previously visited the site and were familiar with the location and setting. The application was for erection of 35 apartments and associated external works and was recommended for approval subject to conditions.

Members were reminded that the application had been considered at the last meeting in October when Members had resolved to refuse it. It was explained that the application was back at Committee for consideration as there had been an error within the report considered by Members in terms of the parking provision. The Senior Planning Officer reminded Members of an existing permission that included undercroft car parking provision and explained that the report considered by Members in October had stated that there were 46 undercroft car parking spaces. It was noted that this was incorrect and that the existing permission actually included 36 car parking spaces, 25 of which were undercroft car parking spaces, accessed from Providence Row, with the remaining 11 being surface car parking spaces accessed from Ferens Close. Accordingly, it was noted that the current application only reduced the car parking numbers by 2, not 12 as stated in the previous report.

Councillors were also asked to note that some minor discrepancies relating to plans and land ownership, were addressed within the report. The Senior Planning Officer highlighted that since the Councillors had visited the site prior to the last Committee meeting it had been fully screened, with images showing this being displayed. Members were shown elevations comparing the previously granted permission with those of the application being considered, with the Senior Planning Officer noting that the new elevations were almost identical.

The Committee were reminded that the approved scheme had included 25 undercroft car parking spaces accessed from Providence Row and 11 surface car parking spaces accessed from Ferens Close. It was added that the proposed scheme included 8 surface car parking spaces accessed from Providence Row, 16 surface car parking spaces accessed from Ferens Close, at the same point as the previous application, and a further 10 surface car parking spaces accessed from the south end of Ferens Close, with a footpath link from these spaces to the proposed development.

The Senior Planning Officer noted that in terms of representations from statutory consultees, the position was the same as at the October meeting, with no objections and that the Highways Section had noted that 34 car parking spaces for 35 apartments was acceptable given the close proximity to the city centre.

The Committee noted an additional letter of objection had been received since the last Committee, making a total of 12 objections received with the main reasons cited in objection including: an increase in traffic; lack of car parking spaces; the location of the car park resulting in noise and disturbance; loss of trees; flood risk; and the appearance of the development.

The Senior Planning Officer noted that in terms of the extant permission the principle of development had been approved and it was the opinion of Officers that the issues raised in terms of impact upon residential amenity, impact upon the Conservation Area and highways were not considered sufficient to warrant refusal of planning permission and therefore the application was recommended for approval.

The Chairman asked Ms K Banks, a local resident to speak in relation to the Application.

Ms K Banks thanked the Chairman for the opportunity to address the Committee and thanked the Members for their careful consideration and decision made at the October meeting refusing the application. It was noted that the report, and articles in the press with comments from the Head of Planning and Assets, had set out the reasons for the application being back at Committee. However, Ms K Banks explained that she felt the proposals were the same as those considered and refused at the last meeting. Ms K Banks noted that the reasons for refusal had been on issues of highways safety and residential amenity and added that the distance to the application site was greater than the 400 metres mentioned within reports previously.

Ms K Banks explained that the proposed car park at the top of the site would be inaccessible during periods of snow, adding that often the conditions were such that residents living at the top of Ferens Close would have to leave their cars at the bottom of the bank. Ms K Banks noted that at the October meeting, Councillor P Conway had explained that a key reason for the approval of the application in 2014 had been the provision of undercroft car parking.

Ms K Banks noted that the proposals were for a total of 26 car parking spaces to be accessed from Ferens Close. Ms K Banks noted that residents of the proposed development, and visitors to those residents, would drive up Ferens Close to look for a place to park and should there be no spaces available they would then need to reverse back on to Ferens Close. It was added that this would cause issues in terms of traffic and parking as those future residents and visitors may decide to park along Ferens Close itself. It was added that on evenings and at weekends there were no parking restrictions and that if people were to park along the narrow road this would lead to difficulties in terms of access, especially for those existing residents who need to have sufficient room to be able to turn their vehicles to access their driveways. Ms K Banks added that there would be a threat to elderly residents and children from increased traffic and that the proposal would be a detriment to residents.

Ms K Banks noted that the Senior Planning Officer had set out within his report that the previous permission could be implemented Ms K Banks added that the permission including the undercroft car parking had been approved with a flood risk assessment having been provided in terms of that application, and another development in the area had undercroft car parking provision.

Ms K Banks explained it was crucial that the right decision was made and urged Members to refuse the application, as they did at their October meeting, as the reasons for that refusal in terms of traffic and residential amenity were not affected by the error that had been noted within the previous Committee report. Ms K Banks asked the Committee not to bow to Developer pressure.

The Chairman thanked Ms Banks and asked Mr A McVickers speaking on behalf of the Applicant to address the Committee.

Mr A McVickers noted the application was identical to that considered by the Committee last month; however, it was back for consideration due to inaccuracies within the Committee report in terms of plans and car parking. It was added that it was not correct to say that the application which was approved in 2014 only had undercroft car parking provision, rather that permission included an 11 space parking court accessed off Ferens Close. Mr A McVickers explained that the application being considered included 16 spaces at this parking court, an additional 5 spaces, and that the 34 car parking spaces would be accessed either from Providence Row or Ferens Close. It was clarified that the previous permission included 36 car parking spaces, which equated to 1 space per dwelling and 1 additional space, and the application at Committee for determination included 34 car parking spaces, only 2 less than the existing permission.

Mr A McVickers added that the site was further than 400 metres away from the Market Place and that guidance in terms of provision of a maximum standard number of spaces would not apply. Mr A McVickers added that the National Planning Policy Framework (NPPF) reflected this approach at Paragraph 39 noting "If setting local parking standards for residential and non-residential development, local planning authorities should take into account: the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; local car ownership levels; and an overall need to reduce the use of high-emission vehicles". Mr A McVickers noted that the location of the development was very sustainable in terms of its city centre location, with access to public transport at Freeman's Place approximately 350 metres from the application site. It was added that in terms of car ownership, data from the 2012 Census showed that 70.1% of people in County Durham owned 1 car or did not own a car.

Mr A McVickers explained that it was felt that the application was in accord with the NPPF and Policy T10 of the saved City of Durham Local Plan and therefore there was no reason for the application to be refused. It was added that planning law stated that where applications were in accord with local plans then they should be approved. Mr A McVickers added that as each application should be judged upon its own merits, there were no issues with this application and the extant permission was not the one being considered.

Mr A McVickers concluded by noting that the relevant supporting documents and drawings had been submitted and had met the necessary requirements, no objections had been raised by statutory consultees, and therefore as all the requirements had been met, he requested that the Committee approve the application.

The Chairman thanked Mr A McVickers and asked Members of the Committee for their questions and comments on the application noting Councillor D Freeman, also a Local Member in respect of this application, indicated he wished to speak.

Councillor D Freeman reminded Members that the application had been refused at the last meeting of the Committee, with the reasons cited at that meeting for refusal being that the application was contrary to saved City of Durham Local Plan Policies H13 and T1 as there would be an increase in traffic. Councillor D Freeman accepted that the figure as regards car parking provision for the extant permission had been incorrectly noted within the October Committee Report, however, the fact remained that the application being considered would mean more cars accessing the site from Ferens Close.

It was added that within the report that the Environment Agency had noted no objections in terms of flood risk and there had been no issues with the nearby development that had undercroft car parking provision. Councillor D Freeman noted that guidance for car parking provision was 1 space per 2 bedroom dwelling and 2 spaces per 3 bedroom dwelling and therefore this would equate to a provision of 46 spaces for this proposed development. Councillor D Freeman noted he had not supported the approval of the permission granted in 2014 and added the reason for less parking provision than the 46 as per guidance had been cited as the close proximity to the Market Place, with a distance of around 400 metres quoted in the previous report. Councillor D Freeman noted this was ridiculous as the actual distance from the site to Claypath was around 500 metres and the distance to the main transport links of the Bus and Rail Stations was around 900 metres. Councillor D Freeman felt it was not acceptable to ignore the Authority's guidance in this regard, especially as there was potential for car parking issues after 6.00pm.

Councillor D Freeman added that the extant permission had set out 25 undercroft car parking spaces accessed from Providence Row and 11 surface spaces being accessed from Ferens Close. It was added that the proposed development would represent 3 separate access points to the site, 2 coming off Ferens Close, increasing the traffic along Ferens Close. Accordingly, Councillor D Freeman noted that as nothing had changed since the application was considered in October he felt that the application should be refused as it was contrary to Policies H13 and T1 of the saved City of Durham Local Plan.

Councillor J Robinson noted he had not been at the last meeting of the Committee so had considered the development and read the papers and submissions from objectors with fresh eyes.

He noted looking at the minutes and reports there appeared to be an increasing spider-web in terms of the parking issues, and added comments within the report stated residents of the proposed development would not be able to get parking permits as existing residents did and they, and their visitors, would need to pay for pay and display parking. Councillor J Robinson noted that existing residents paid for their parking permits and added that it seemed to be that residents were being fitted around the scheme.

Councillor J Robinson added that there was an extant permission with undercroft car parking and asked why has this scheme not been taken forward, with the Developer knowing what they were getting into as when the permission was granted in 2014. Councillor P Conway had raised the issue in terms of potential flooding and there had been no objections from the Environment Agency as regards that application. Accordingly, Councillor J Robinson noted he could not support the application.

Councillor P Conway noted he understood the reason why that application was back before Committee for consideration, to close a legal loophole, however he felt there were no reasons to change his opinion on this application. Councillor P Conway added that the undercroft car parking had been fundamental to the 2014 approval and that in considering the current application he felt that there would be highways problems if approved. Councillor P Conway suggested that given the location of the development, it was unlikely the apartments would fall within the affordable housing price bracket and that car parking would be required for each property. Councillor P Conway concluded that he would support the Local Member in proposing refusal of the application and would suggest the Developer complete the site as per the 2014 permission.

Councillor C Kay explained he had noted no significant change since the meeting in October and therefore supported the refusal of the application. He added he felt that it was classic Developer creep and while he understood the reasons why the application was back at Committee for consideration, it was the same as the one that was refused. Councillor C Kay noted that the Developer had got planning permission in 2014 and suggested that they go and build as per those approved plans.

The Senior Planning Officer explained that Highways Engineers had stated that while the development was outside of the 400 metres in terms of guidance on parking, it was considered a reasonable walking distance to the city centre, with the Institution of Highways and Transportation noting a suggested acceptable walking distance to a town centre up to a maximum of 800 metres.

Councillor D Freeman noted he proposed that the application be refused, for the same reasons as explained at the October meeting of the Committee, namely that the application was contrary to saved City of Durham Local Plan Policies H13 and T1. The Chairman noted the reasons as set out in the minutes of the previous meeting and asked as regards issues of access. Councillor D Freeman noted that the additional access from the top of Ferens Close made more of an issue in terms of traffic. The Team Leader - Central and East, Sarah Eldridge asked if the issue was simply as a result of the additional access or whether it was intensification.

Councillor D Freeman noted it was both, with the proposed additional car parking spaces provided at the parking court off Ferens Close and the additional parking accessed from the top of Ferens Close meaning additional traffic would access the site from Ferens Close. It was noted that the extant permission would have less traffic along Ferens Close as majority of car parking provision would be accessed from Providence Row.

Councillor D Freeman moved that the application be refused; he was seconded by Councillor P Conway.

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

1. The new access from Ferens Close would have an adverse effect on the area and on the character of the area by the conversion of an area of green land into a car park, contrary to saved policy H13 of the City of Durham Local Plan.
2. The amended access points for this development would have an adverse effect on the amenity of local residents and of residents in Ferens Close, particularly after 6.00 pm, contrary to saved policy T1 of the City of Durham Local Plan.

b DM/16/01717/TPO - Land Opposite To 55 South Street, Durham

The Principal Planning Officer, Alan Dobie gave a detailed presentation on the report relating to the abovementioned planning application, a copy 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 and were familiar with the location and setting. The application was for the felling of one cypress tree protected by a Tree Preservation Order (TPO) and replacement with indigenous deciduous variety and it was recommended for the Committee to be minded to refuse the application.

Members were reminded that the site was within the City of Durham Conservation Area and that in 2015, prior to the TPO being in place, an application was made to fell the tree under Conservation Area controls. It was added that at that time Officers from the Landscape (Trees) and Planning Sections felt that as the tree was within the CA, and that it passed the relevant criteria associated with quality, health, age and longevity, that a TPO was appropriate for this particular tree.

The Principal Planning Officer noted objections to the application had been received from the Council's Landscape (Trees) Officers in terms of the tree being a healthy specimen and was a notable and attractive feature within the visual environment, making a positive contribution to the character of that part of the Conservation Area. It was noted that there had been 12 letters of support for the felling of the tree, citing reasons including: loss of view; non-native species; visual intrusion; detrimental impact upon the area; damage to church buildings; out of character; height; loss of natural light; and the tree being an overbearing eyesore.

The Committee noted that there had been 2 letters of objection to the felling of the tree noting that the tree enhanced the area, that the application for felling was more to do with house prices and that there had been a lack of notification/public consultation.

The Principal Planning Officer explained that in planning terms there were three considerations: the amenity value of the tree; whether the proposal was justified; and whether any loss or damage was likely to arise if consent was refused. It was noted that these matters were set out in some detail within the report, and that Members had visited the site and therefore would be able to make some judgement in terms of the amenity value of the tree. It was added that the tree had been assessed to have "some life left in it" and there was no evidence of the tree causing issues of structural damage. Councillors were informed that there had been a campaign locally to save the tree, however this was not a relevant planning issue and the recommendation was based upon the merits of the application.

Members noted that unauthorised works had been carried out to the tree in terms of lopping, and a retrospective application had been made as regards this, with the Tree Officer having inspected the works and deemed them acceptable.

The Principal Planning Officer concluded that it was the view of Planning Officers that the application be refused, however, Members were advised to note that the Council's Constitution was such that the Committee could not determine the application, rather be minded to approve or refuse and that the power to make a delegated decision was with the Head of Planning and Assets, taking into account the views of the Committee.

The Chairman asked the Local Member for Elvet and Gilesgate, Councillor R Ormerod to speak in relation to the Application.

Councillor R Ormerod thanked Members for the opportunity to speak and noted he would keep his comments brief. Councillor R Ormerod noted that issues in terms of trees were often emotive and the judgement in these matters was subjective, with some trees being judged such to be retained, some to be removed. Councillor R Ormerod noted that in this case he did not feel that the tree was worth keeping and highlighted that actually the tree would not simply be felled, rather it would be replaced. Councillor R Ormerod noted that while some may judge the tree to be a fine specimen in isolation, it was in much conflict with the surrounding woodland and he felt that felling of the existing tree and replacement would be much more appropriate. It was added that there could be an opportunity for the local primary school to get involved in the process of looking at a replacement tree. It was explained that local residents and the Dean and Chapter did not object to the application and therefore Councillor R Ormerod noted that he supported the application.

The Chairman thanked Councillor R Ormerod and asked Ms E Bell a local resident to speak in relation to the Application.

Ms E Bell noted that she and her husband had been dealing with the issues in relation to trees in this area over the last 6 years and that 5 conifer trees had been removed at her and her husband's expense in order to give neighbours a view of the Castle. It was explained that the TPO had been put in place less than a year ago, and Ms E Bell noted that the applicant appeared to insult the Officers involved in the process of granting a TPO, highlighting that TPOs were not arbitrarily determined, with the documentation being meticulously prepared. Ms E Bell added that she would urge the Committee to refuse the application based upon the application being contrary to saved City of Durham Local Plan Policy E22 together with Policies E14 and E15.

Ms E Bell noted that the tree was not within the World Heritage Site; rather it was located within an allotment leased from the Dean and Chapter, in a grove with 4 other trees. It was added that Ms E Bell felt it was unfeasible what the applicant proposed in terms of changing a 100 year old tree, it was not like changing your car, with Ms E Bell stating that the roots of the tree likely supported the local area, including land of the applicant and other neighbours.

Ms E Bell added that the tree would trap CO₂ all year round, being an evergreen species, and that the tree was in a sustainable area and that the only issue seemed to be it was impinging upon some peoples' view, in their opinion. Ms E Bell noted that it had been suggested that removal of this particular tree was no different than the other trees that had been removed. Ms E Bell asked Members to note that the tree was named Elsee, and was not just any tree. It was added that thousands of schoolchildren supported Elsee and that the Head of St. Leonard School, formerly resident at her property, supported Elsee. Ms E Bell added that there were over 200 signatures in support of keeping Elsee and two children's stories had been written about "Elsee the Miracle Tree" and she was meeting with a publisher and an illustrator in this regard. Ms E Bell explained that there may be opportunities to have events involving and supporting the Woodland Trust and that this was not the end of Elsee's story, the ending was up to the Committee.

The Chairman thanked Ms E Bell and asked Mr R Freeley, the applicant, to speak in relation to the Application.

Mr R Freeley thanked the Committee for the opportunity to speak and noted he and his partner lived at 55 South Street in the city. Mr R Freeley explained that all the relevant background information had been provided in his statement within the report and asked Members to imagine if their own home looked out at a tall, dark, unchanging tree and asked would they not prefer to look out at an Ash Tree that changed throughout the year. Mr R Freeley noted that the choice of replacement would be for the Council to make and would be made at his expense.

Mr R Freeley added that if the majority of the residents were of a similar opinion and did not feel that the tree added to their amenity and therefore should be removed. Mr R Freeley concluded by noting that the speaker in objection to the application was no longer resident in Durham and that he hoped Members would support the application.

The Chairman thanked Mr R Freeley and asked the Principal Planning Officer to comments upon the issues raised by the speakers.

The Principal Planning Officer noted that the applicant had offered to replace the tree at their expense and while this was laudable, the loss of a tree of that scale and maturity would be difficult to replace. It was added that any replacement specimen would not be as mature and require a number of years before becoming equivalent in size and impact, therefore in the short to medium term it would not be appropriate suitable replacement. The Principal Planning Officer added that the tree was already in place when the applicant moved into the property and therefore the view of the tree would not have come as a surprise, and in the wider sense the Officers supported the retention of the tree.

The Chairman asked Members of the Committee for their questions and comments on the application noting Councillor D Freeman, also a Local Member in respect of this application, indicated he wished to speak.

Councillor D Freeman noted he was a big fan of trees and it was not very often that he supported their removal. Councillor D Freeman noted that the amenity test looked at whether the removal of a tree would have serious detriment to the amenity of the public, and in this particular instance he did not feel that there would be detriment to the public, with the majority of the local residents not supporting the recommendation for refusal, the planning portal not having any objections from residents of South Street. Councillor D Freeman added that it appeared to him that the tree was not the 100 year old as claimed, rather it was likely planted in the 1980s and as the tree was non-native it conflicted with the natural surrounding area. It was added that the landowner, the Dean and Chapter, had not objected to the removal of the tree, as there was no issue. Councillor D Freeman noted that he understood that it was an emotive issue; however he felt that the removal of the tree would be beneficial to the amenity of residents and therefore he could not support the Officer's recommendation for refusal.

Councillor B Moir noted he had sat on Planning Committees at Durham for almost 4 years, and had been involved with other Planning Committees for 16 years prior to this and felt he had almost entered an alternative reality when looking at this application. Councillor B Moir noted that the Officers' work on the matter had been solid and therefore he supported and proposed the recommendation that the Committee to be minded to refuse the application.

Councillor A Bell explained he had visited the site with the Committee, he felt that the tree actually complimented the area and hence the TPO being in place, and accordingly he would second the proposal for the Committee to be minded to refuse the application.

Councillor P Conway noted there was an issue of sovereignty in terms of who could make the final decision, and added that personally he often walked along this road and found the height and massing of Elsee to be very large and that a deciduous tree may be more appropriate. Councillor P Conway added he was happy for the Head of Planning and Assets to make an aesthetic judgement in this regard.

Councillor C Kay noted that when visiting the site, the tree was not what he had expected, and while he was no tree expert and while there may be some issue of amenity in terms of residents, no individual owned a view. Accordingly, Councillor C Kay noted his support for the Officer's recommendation.

Councillor B Moir moved that the Members be minded to refuse the application; he was seconded by Councillor A Bell.

RESOLVED

That the Committee were **MINDED TO REFUSE** the application for the reasons set out in the Officer's report, with the final decision to be made by the Head of Planning and Assets under delegated powers.

c DM/16/02695/FPA - 16 Nevilledale Terrace, Durham

The Principal Planning Officer gave a detailed presentation on the report relating to the abovementioned planning application, a copy 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 and were familiar with the location and setting. The application was the erection of single-storey extension at rear of dwelling (retrospective application) and was recommended for approval, subject to the agreed alteration works being carried out within 3 months of the date of approval.

Members were reminded that an application for a flat roof extension had been approved in 2015, however, it was brought to the Authority's attention that the extension was: slightly taller than the permission; used slightly different windows; used a different lantern; and a different brick type. Accordingly, a retrospective application was required.

The Principal Planning Officer noted that the Local Members had asked that the application come to Committee for consideration due to the application site being within the Conservation Area and that the work had already been carried out. It was added that Planning Officers had spoken to the applicant in terms of their concerns and a number of changes were proposed within the retrospective application to make the extension acceptable in planning terms.

Members noted the replication of a coal hatch and the use of former coping stones to help visually reduce the height and help assimilate the extension into the street.

The Committee was shown a table setting out the elevations and issues in terms of the 2015 permission, what was actually built and what was proposed in the retrospective application. It was explained that the original permission granted had been approved under delegated powers and at that time the application had received no comments or objections. Members were aware of what had been built, having been out on site earlier in the day.

It was explained that the application in front of Committee proposed a negotiated compromise in terms of a reduction in height by 300mm, with anything greater requiring significant structural alterations, and work to the aluminium trim. It was added that the current glazed lantern element would be replaced with a less visible unit and in the Planning Officers' view these alterations would make the extension acceptable and if granted the works would be required to take place within the next 3 months.

The Committee noted that there had been 33 letters of objection to the application, with none having been received at the time of the 2015 application, and 30 letters of support had been received in terms of the application. It was added that objections had also been received from the Member for Parliament for the City of Durham, Roberta Blackman-Woods MP, the Crossgate Community Partnership and the City of Durham Trust. Members noted an additional objection had been received since the report was prepared for Committee.

Councillors noted that supporters had cited several reasons including that the development improves the property, that the works were minor and they constituted no significant harm to the Conservation Area.

It was noted that objectors had raised several issues in terms of the design of the extension and the context of the Conservation Area and saved City of Durham Local Plan Policies, as summarised within the report. It was added that other issues raised by objectors had included: that the original plans should have been followed and a fine should be issued for the breach; that the changes proposed were not sufficient; and that the Design Team had not correctly evaluated the proposed changes.

The Principal Planning Officer explained that the Council's Design and Conservation had offered no objections on heritage or design grounds. It was added that the flat roof, as opposed to sloped roofs used on other extensions in the area, was not seen as a significant issue and that in terms of the works already undertaken there was no real punishment in the case of the errors in construction. Accordingly, the recommendation was for the retrospective application to be approved and subject to the condition that the works be carried out within 3 months.

The Chairman noted the Local Members for Neville's Cross, Councillors G Holland and N Martin were in attendance to speak in relation to the Application and asked Councillor G Holland to begin.

Councillor G Holland noted that colleagues may have been puzzled why what appeared to be a small and parochial planning application had found its way to Committee and that both Local Members would attend Committee to speak about it.

Councillor G Holland added that the reason, however, was important. It was explained that in the beginning the property was just another House in Multiple Occupation (HMO) which the owner had decided to expand to include more students and thus increase the income from the property. The application for that work had been approved under delegated powers because it had apparently differed little from the hundreds of other such applications in the city centre.

Councillor G Holland explained that as the building progressed it became ever more obvious that the build was not following the approved plans and there was outcry from the local residents as what they saw emerging was, in their eyes, unacceptable. It was added that the extension as built was the wrong size, inappropriate in style and had disfigured the setting of the late Victorian Terrace.

Councillor G Holland noted that the test had to be whether this particular extension, which had been built without the benefit of planning permission, now met the demands of Policies E6, E22, Q1, Q9 and H9 of the saved City of Durham Local Plan, Article 4 relating to Conservation Areas in Durham City, and Policy 7 in the NPPF.

Members noted that Policy E6 placed constraints in a Conservation Area and was designed to protect the special features of Durham City, seeking to avoid reflective surfaces such as glass or plastic. It also requires the use of external building materials which are the same as, or are sympathetic to, the traditional materials in an historic city or an individual street. Councillor G Holland added that this arbitrary extension failed to meet those constraints and therefore it failed the test of E6.

The Committee noted that Policy E22 addressed the Conservation Area and in its first section it stated that the Council would not permit development proposals that would detract from the character or the appearance of the Conservation Area or its setting. It was added that all development proposals should be sensitive in terms of siting, scale, design and materials, reflecting existing architectural details. Members noted that the policy also demanded a sufficient level of detail to accompany applications to enable an assessment to be made of its impact on the Conservation Area. Councillor G Holland added that this never occurred. Councillor G Holland noted that in his opinion this application had failed the test of Policy E22 and that from the outset there had been inadequate detail to recognise the changing land levels, which were already well known, and yet which half way through construction made it clear that the original plans must founder. It was added that what followed was arbitrary and insensitive to the setting of the property in Nevilledale Terrace. The Local Member explained that the site was now over massed and discordant with the adjacent buildings with the flat roof that does not recognise the sloping roofs in all other adjacent properties, also being discordant. Councillor G Holland added that he felt that the aluminium flashing was unacceptable in a Victorian terrace and that the extension was a botch up and however much you fiddle at the margins you could not meet the design criteria demanded by Policy E22.

Councillor G Holland noted that Policy Q9 lead to a similar conclusion, requiring that the design, scale and materials were sympathetic to the main dwelling and to the appearance of the area. It was added that all the evidence made it clear that they were not and therefore the application failed the test of Policy Q9. Councillor G Holland noted at the application also failed the test of Policy H9, which was not mentioned in the Officer's report. It was explained that H9 was dedicated to HMOs and extensions to those properties and confirms that such developments must not adversely affect the amenities of nearby residents and were of a scale and character, both with their surroundings and with any neighbouring residential properties. Councillor G Holland noted that quite simply, it was not.

Councillor G Holland noted that the Officer did touch on NPPF Section 7 within the report but had failed to develop the concept. It was explained that this part of the NPPF demanded good design and added that the Government attached great importance to the design of the built environment. Specifically, Paragraph 64 stated clearly that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and the quality of an area and the way it functions. Councillor G Holland noted those were the exact words and as the development failed Section 7 Paragraph 64 of the NPPF, the application should be rejected.

Councillor G Holland noted that the problem that confronted the Committee was that the present situation, and the retrospective application, were the result of poor procedures at an earlier stage and a lack of control during construction. It was noted that added to this, the developers themselves failed to follow correct procedures or take advice. Councillor G Holland explained that the decision had to be based on Planning Policies rather than sentiment or the feeling that the development was too minor to bother about. Councillor G Holland noted you cannot cherry-pick the weight that you give to our Policies.

Councillor G Holland concluded by reiterating that he felt the application clearly failed the test of Local Plan policies E6, E22, Q9 and H9 and it also failed the Government's directive in Section 7, Paragraph 64 of the NPPF and therefore the Committee should reject the retrospective application and seek a more suitable structure in its place.

The Chairman thanked Councillor G Holland and asked Councillor N Martin to address the Committee.

Councillor N Martin noted he had a number of questions in relation to the application. Firstly he asked "when was a Conservation Area not a Conservation Area", adding that he did not believe that there was such a thing as a "part-Conservation Area". Councillor N Martin noted that the idea that one part of a Conservation Area did not look as pretty or did not matter was incorrect; rather development should enhance an area.

Councillor N Martin noted that the Officer had noted within the report and in reference at the previous application that each application was dealt with on its own merits and therefore the application would not be setting a precedent.

Councillor N Martin asked what was meant by "discourage the use of uPVC", adding did this mean that there was no force in planning terms and what reason was there for the use of uPVC, given that the original application stated no uPVC to be used.

Councillor N Martin added that the original application stated that materials must be approved by Planning Officers, however, the choice of bricks used was not submitted to Planning and therefore he asked what the response would have been from Officers in that regard.

Councillor N Martin asked at what point do planning permissions mean something, adding he suggested to the Committee that it was perhaps reckless that the choice of brick to be used was not submitted to Planning Officers.

Councillor N Martin noted that the Council had issued letters to some areas within the City noting that residents needed to have a certain type of window or paint type and concluded that the Council must say planning permissions and the Conservation Area mean something and refuse the application.

The Chairman thanked Councillor N Martin and asked Mr N Rippin to speak on behalf of Roberta Blackman-Woods MP in relation to the Application.

Mr N Rippin thanked the Committee for the opportunity to speak on behalf of Roberta Blackman-Woods MP, who was unable to attend the meeting. Mr N Rippin noted that the MP had met with residents and it had been noted that there was a great deal of resistance in terms of this application. It was added that the MP thanked the Conservation Officer who had agreed to meet with her on site and discuss the issues. However, it was explained it was not felt that the retrospective application was suitable, for the reasons and Policies as stated by the Local Member, and also the MP did not feel that the application would pass on appeal and therefore should be refused. Mr N Rippin explained that the MP had noted the application sought a very different scheme than that previously approved, with a significant height difference and unsuitable materials being used in terms of uPVC, brick type and aluminium trim. It was added that it was not felt that the application mitigated the harm to the historic street and the property was within the Conservation Area and was a non-designated heritage asset. It was noted that the character assessment of the area would be rendered out-of-date if the application was approved.

Mr N Rippin added that it had been noted that of the 30 letters in support of the application, several were from other local landlords and others were from students, with none of them setting out any material planning reasons why the application should be approved. It was added that on the whole the letters in objection were from local residents or from local community groups that had the interests of the city at heart. It was noted that tourism was an important part of the economic plan for the city and any additions needed to be sensitive and enhance the area. It was noted that approval would set a dangerous precedent and Members were reminded that Durham contained a World Heritage Site. It was added that there was already an existing permission and if the extension had been constructed in line with that approval then there would not have been an issue, with Members being asked to resist developer creep. It was explained that the MP understood the need to upgrade properties over time, however, such alterations and additions should be respectful of the Conservation Area and the surrounding properties and accordingly she would hope that the Committee refuse the application.

The Chairman thanked Mr N Rippin speaking on behalf of the MP and asked Ms S Wilkinson, a local resident to speak in relation to the Application, noting that there were a number of slides that would be shown while the resident spoke.

Ms S Wilkinson noted that the City of Durham Trust, the Local MP, Local Councillors and residents all supported the refusal of the application. It was added that a TV documentary had noted that developments within a Conservation Area must enhance the area. It was noted that the development was contrary to Policy E22 of the saved City of Durham Local Plan, and the report gave a false impression of the extension with the current height being 4 metres, with the existing permission being for a height of 3.5 metres. It was added that to state that the proposed 3.7 metre height was very similar to the former wall was not true, it was an increase 70 centimetres. Ms S Wilkinson added that Assistant Design and Conservation Officer had noted that the original design had been very well considered and added now it appeared as if the original was not of good design. Ms S Wilkinson added that Members would have seen on site the height of the extension and the fact that it was not stepped in height, unlike other properties in the street. It was explained that the salvaged coping stones were below the correct levels and this was a breach of Policy E22 and the NPPF. Ms S Wilkinson noted that the Article 4 Direction imposed in 2007 was to prevent this type of erosion of the Conservation Area. It was added that only one of the supporters was a resident of Nevilledale Terrace.

Ms S Wilkinson noted that the applicant had not approached the Council in terms of the brick type used, the lantern was not in keeping with the flat roofs used on extensions in the area and it was added that the windows had not been replaced with bi-fold doors. Accordingly, Ms S Wilkinson noted that the application was not in accord with saved City of Durham Local Plan Policy E6. Ms S Wilkinson noted that the wall should only be 3.5 metres and that there should be a parapet to shield the view from the street and the aluminium trim was not in keeping with the area, and should use glazed coping stones. Ms S Wilkinson concluded by explaining that residents would ask that the Committee refuse the application.

The Chairman thanked Ms S Wilkinson and asked the Principal Planning Officer to respond to some of the issues raised.

The Principal Planning Officer noted that policies had an element of interpretation and that the detailed assessment had been undertaken, in addition to seeking advice at a high level from within the Council's Design and Conservation Team, and it was felt with the amendments proposed within the application would make the extension acceptable. It was added that there was not a requirement to enhance a Conservation Area via legislation, rather to "preserve or enhance" and therefore in this case it was felt to preserve. It was explained that while Officers had not had the opportunity to comment on the brick type, now the application was assessed, looking at the range of materials used and those in the area and it was not felt there was sufficient detriment to warrant a refusal recommendation. The Principal Planning Officer added that there was also the fall-back position in terms of the existing permission. It was reiterated that Officers recommended that the application be approved.

The Chairman thanked the Principal Planning Officer and asked Ms J Atkinson to speak on behalf of the Applicant.

Ms J Atkinson thanked the Committee for the opportunity to speak and noted she was not a planning expert, and that in terms of the development an experienced architect was involved at the pre-planning stage however he had become distracted due to a personal matter which Ms J Atkinson felt she could not speak further on. Unfortunately there then had been a discrepancy in terms of the height of the development. Ms J Atkinson noted there had been a number of rather personal attacks as regards the application, however, once the discrepancy had been noted the Planners and Officers from Design and Conservation had been contacted and discussions took place as regards amended planning. It was noted that the Head of Design and Conservation had met with the MP in this regard and Ms J Atkinson noted that student housing was always an emotive issue, with Members well aware of this. Ms J Atkinson did note and thank those residents that did make the effort to speak to her and chat as regards circumstances behind the situation and offer their support, though noted that the atmosphere of intimidation was such that they did not feel they were able to come forward in terms of publicly supporting the application. Ms J Atkinson thanked those who had offered gifts of scones and flowers, with their gestures being very kind. Ms J Atkinson also thanked the Council's Planning and Heritage and Design Departments for their help and asked the Committee if they would support the Officers' recommendation for approval. Ms J Atkinson noted that there was not a large difference in comparison to the approved permission, the extension did not overlook any other properties and the application would preserve the quality of the Conservation Area.

The Chairman thanked Ms J Atkinson and asked Members of the Committee for their questions and comments on the application.

Councillor A Bell noted he had attended the site visit and with his building experience the development was not the best extension in the world, however, he did not feel that a drop of four courses would alter or improve the situation. Councillor A Bell added that he understood that the uPVC lantern was considered obtrusive and noted that the reduction of four courses may not be sufficient, however asked if the fall-back position of the previously granted permission or another application may be more suitable.

The Principal Planning Officer noted to work to the previous permission would require at least some demolition or alteration to the roof and while this may require substantial construction works the applicant may wish to go back to this permission should their application be refused.

Councillor A Bell noted that the alterations to remove four courses of bricks would likely still be substantial, and added that surely the building inspector should have been "on the ball" and he did not feel the changes were warranted.

Councillor C Kay noted he was sorry to hear as regards the situation with the applicant, and noted he held a different view to that of Councillor A Bell.

He noted that he felt the removal of four courses of brick was significant and he also felt that a "Conservation Area was a Conservation Area" and the aluminium trim used was not acceptable in such a location, it was more suited to starter units at an industrial estate.

Councillor C Kay noted that the condition set out in the report stipulated that works be undertaken within 3 months and added that he may be cynical as regards whether they would be and wondered whether it was not possible to say put it back as it should be.

Councillor P Conway noted that the application seemed to be trying to make the best of a bad job; however, he felt that even the original application that was approved was not in keeping with the area. He added that he felt that the works did jar with the rest of the back street and that if the original permission had come to Committee and there had been an opportunity to discuss the issues fully then this situation may not have arisen. Councillor P Conway added that he did not know why it had not been called in initially and noted he agreed with Councillor A Bell in that building inspectors should have perhaps been “keeping an eye” on works. Councillor P Conway noted he was minded, given that the original permission had already been approved, to go back to the original position.

The Chairman asked if there were any Members wishing to make a proposal in terms of the application. Councillor P Conway asked if Planning Officers could comment on some of the points made by Members.

The Principal Planning Officer noted he was not sure what else could be added in terms of the report, presentation and representations made, however, reiterated that the application represented a compromise position negotiated between the applicant and Planning with recommendations from the Design and Conservation Team. It was added that in terms of approval or refusal, the applicant could go back to the original position, or appeal any decision to refuse the application, should Members be minded to refuse the application.

Councillor A Bell noted he felt that the Committee were stuck between a rock and a hard place, with Councillor P Conway mentioning the possibility of going back to the original approved permission, however he did not feel that was necessary and that the building inspector should take some responsibility.

Councillor A Bell moved that the application be approved; he was seconded by Councillor J Clark.

Upon a vote being taken the motion was **lost**.

The Chairman asked whether any Members wished to move to the contrary in respect of the application.

Councillor C Kay noted that the previous permission was granted and was deemed to not detract and he felt that the application would adversely impact.

The Chairman noted that a decision would need to be made and that if the Committee disagreed with the recommendation then the Members must propose and vote accordingly, citing with relevant policy reasons for refusal. Councillor C Kay noted that reasons would as be per the NPPF and saved Local Plan Policies, with the application detracting from the Conservation Area.

The Chairman reiterated that policies would need to be listed, together with reasons why the application was contrary to them in order for the Committee's decision to be robust should an appeal against it be made.

Councillor B Moir noted that on that basis the decision would be based upon: Policy E6 of the saved City of Durham Local Plan and retaining the character of the Conservation Area; Policy Q1, in terms of the design and layout; Policy Q9 in respect of alterations and extensions to residential properties; and Policy E22 preserving the Conservation Area.

The Solicitor - Planning and Development, Neil Carter explained that the development was not built in accordance with a permission that was already in place. The application before Members was a retrospective application not for the works as carried out, rather for what would be retained, 20 centimetres higher than the permission already in place. The Solicitor - Planning and Development added that if Members were minded to propose the refusal of this application then they would need to identify what harm would be caused by the proposals in the application, what it was that would be unacceptable when compared to the extant permission already in place.

Councillor B Moir noted that the original position had been agreed under delegated powers and from the comments made it appeared that the Committee did not accept the aluminium trim in principle and the objectors had noted that 3.5 metres in height was acceptable, with the proposal being 3.7 metres and therefore this was not acceptable in terms of Policy E6.

Councillor J Robinson noted the original permission was granted under delegated powers and the views of Members seemed to be such that it may be preferable to defer the application until the next Committee to see further details of the original application as he felt that there was insufficient information on that at present.

The Chairman noted if Members felt that there was a need to defer the application then it would need to be proposed and seconded.

Councillor P Conway noted that if Councillor J Robinson was proposing deferral he would second this and look to have an application back at a future Committee.

Councillor J Robinson moved that the application be deferred; he was seconded by Councillor P Conway.

RESOLVED

That the application be **DEFERRED**.

d DM/16/03056/FPA - Seaham Grange Farm , Stockton Road, Seaham

The Planning Team Leader (Central and East), Sarah Eldridge gave a detailed presentation on the report relating to the abovementioned planning application, a copy 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 a detached new dwelling to replace previous existing barn and was recommended for refusal.

Members noted that an agricultural barn had been on the site and had been in the process of conversion into a dwelling, under permitted development rights, when the structure collapsed. Accordingly, an application was submitted in terms of a new detached dwelling on the site. It was explained that the area contained a small cluster of properties, and that the site was within the green belt. The Planning Team Leader noted that the applicant ceased works on the site and effectively all that remained was a concrete pad. It was explained that the footprint of the proposed building was the same as the demolished agricultural building and the shape, size and massing was identical to the proposals that would have been undertaken under permitted development.

The Committee noted that there had been no objections from the statutory or internal consultees on the application and there had been 2 letters of support from local residents, wishing to see the site developed as a family home.

The Planning Team Leader noted that the issue was whether the proposal was acceptable in principle. It was reiterated that the agricultural building did have permission for conversion to residential use; however this application was for the replacement of a building. Members noted that the site was now open and therefore the proposals represented development in the green belt and represented an adverse impact. The Planning Team Leader noted that in all other aspects the proposal was acceptable; however, as the application represented development within the green belt the recommendation was for refusal.

The Chairman asked Mrs Proctor, the applicant, to speak in relation to the Application.

Mrs K Procter explained that she and her husband had bought the property around a year ago, with the intention to convert it to a family home. She added that during the process of removing the asbestos roof and timbers, the building had collapsed. It was noted that it had been unavoidable and the collapse had been dangerous. Mrs K Procter added that they had contacted the Planning Department subsequent to the collapse and were told to stop building and resubmit the application.

Mrs K Procter explained that they did not want to do anything different to the previous conversion application, simply to have a family home. It was added that they were from Seaham, with family living in the area and their children attending the local school.

Mrs K Proctor concluded by explaining she and her husband were not developers, were not building the property for the money, rather as a family home, investing their life savings and should the application not be approved they would lose everything.

The Chairman thanked Mrs K Proctor and asked Members of the Committee for their questions and comments on the application.

Councillor J Robinson noted that this application reinforced his view of the foolishness of planning law, with the last application having been built not in line with permission and with this application where the applicant has come to the Council to get the right permission in place. Councillor J Robinson noted the recent Planning Inquiry which was lost in terms of 300 houses, a large development, and this application was for a single dwelling, already part of a small developed area. Accordingly, Councillor J Robinson felt that there was a special argument and as there had been no objections to the development he felt the Committee should be pragmatic and go against the Officer's recommendation.

Councillor P Conway noted he supported Councillor J Robinson in terms of being a special circumstance, with the site being bound by other properties on three sides, with no visibility of the "green belt", and a number of residential properties in the area. It was added that he could not imagine standing in any position in the nearby green belt and there being potential harm from this proposed development and therefore felt there were special circumstances. Councillor P Conway added that the current state of having an empty plot was "hurtful to mine eye" and in fact felt the development would enhance the area, accordingly he would support approval of the application.

Councillor A Bell noted the crazy situation in terms of the permitted development, then the collapse and the application having to come before Committee with a refusal recommendation. In terms of requiring a special circumstance, Councillor A Bell noted that while the original conversion was of an agricultural building to a residential property, could it be considered that the development was a continuation of the building works that had started when the structure collapsed. Councillor A Bell noted he too supported approval of the application.

The Solicitor - Planning and Development noted that while building works had begun in terms of the permitted development, conversion of a barn, any future works would constitute a new development and would require planning permission and the refusal recommendation from Officers was due to the development being inappropriate development within the green belt, with the NPPF stating there was harm by reason of inappropriateness, and it would be for Members to decide whether this harm was outweighed by any other circumstances, such that very special circumstances could be said to exist.

Members were reminded that there was no closed list in terms of what potential circumstances could outweigh the harm, for example the personal circumstances of the applicant were a material planning consideration and Paragraph 88 of the NPPF stated:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the green belt. ‘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”.

Councillor J Clark noted that this application highlighted the importance of site visits, adding that simply looking at the report there appeared no reason to believe the application should go forward. However, going on site and seeing the context of the site, how it sat with the existing buildings, Councillor J Clark noted her support for what fellow Members had said in terms of approval on the basis of: the personal circumstances of the applicants; the development caused no additional harm to the green belt; and that if the site was not development then this would constitute harm to the other nearby residents and negatively impact upon amenity.

Councillor C Kay felt that the site was in fact brownfield as there had already been development on the site and that while Members accept the Planners’ views, common sense would say it was the same development as before and the development was not “out in the wilds of Wannie” and therefore he would support and move approval of the application.

The Chairman noted that the Committee must work on the principles of the Planning Policies in place, as the Planning Officers did, and if Members felt they did not support the view of Officers then they must give the reasons why and refer to the relevant policies to support that view.

Councillor B Moir asked if the comments from Members of the Committee had identified yet, for the purposes of a proposal for approval, the special circumstances that would outweigh the harm to the green belt, reiterating the unfortunate collapse of the agricultural building, a commercial disaster and a personal devastation.

The Chairman noted he felt the Committee was almost there, with Councillor P Conway having noted he felt the development would enhance the green belt and the amenity of the nearby residents.

Councillor J Robinson noted he proposed that the application be approved, noting the special circumstances in terms of: the personal circumstances of the applicants; the development being at the edge of the green belt; the development would enhance the area; was near to other built up areas; and not causing additional harm to the green belt; outweighed any perceived harm to the green belt. Councillor P Conway seconded the proposal for approval adding; if Councillor J Robinson was in agreement, that there would be harm to the amenity of the other residents should the development not take place. Councillor J Robinson agreed.

The Planning Team Leader noted that should Members vote to approve the application, it would be subject to the normal conditions in such applications, such as timescales, approved plans, suitable materials and to also remove further permitted development rights, and asked if the Committee would also agree for those conditions to be determined by Officers under delegated authority from the Committee. Members agreed in terms of the delegation of conditions to Officers as suggested.

Councillor J Robinson moved that the application be approved; he was seconded by Councillor P Conway.

RESOLVED

That the application be **APPROVED** subject to conditions to be agreed by Planning Officers.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/02129/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing building and proposed new build for student accommodation
NAME OF APPLICANT:	Mr Christopher John Alderson
ADDRESS:	3 Fram Well House, Diamond Terrace, Durham, DH1 5SU
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of Fram Well House and the associated land which is located near Diamond Terrace in Durham City. The site is bounded by residential terraced properties on Diamond Terrace to the east and a belt of trees to the west, beyond which is the East Coast Mainline (railway line). The site is accessed from the A691 Framwelgate Peth to the south. To the north of the site are open fields. The site itself has the Fram Well House building located centrally with parking to the south and north. The site lies within the Durham City Conservation Area and is also within proximity to the Durham Castle and Cathedral World Heritage Site. The northern section of the application site also falls within the Durham City Green Belt.

The Proposal

2. Planning permission is sought for the erection of 7no. student accommodation blocks containing in total 69no. bed spaces, along with living/dining/kitchen and bathroom facilities. The buildings would be a mix of two and three storey heights and would be linked with stairwells and all would be of flat roof construction. A new access is proposed which would incorporate the rear of Diamond Terrace leading to a parking area and turning space.
3. This application is referred to the Planning Committee as it constitutes a major planning application.

PLANNING HISTORY

4. There is no planning history on this site relevant to the determination of this application.

PLANNING POLICY

NATIONAL POLICY:

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
7. The following elements are considered relevant to this proposal;
8. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
9. *NPPF Part 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 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing application should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
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 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.
13. *NPPF Part 9 – Protecting Green Belt Land.* The Government attaches great importance to 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.

14. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
15. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
16. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

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

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

LOCAL PLAN POLICY:

City of Durham Local Plan

17. *Policy E1 (Durham City Green Belt)* states that within the Green Belt the construction of new buildings is inappropriate and will not be permitted unless it is for purposes relating to agriculture or forestry; essential sport and recreation facilities or cemeteries; replacement of an existing dwelling, re-use or conversion of an existing building; and limited extensions to existing dwellings.
18. *Policy E3 (World Heritage Site) Protection* seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
19. *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.
20. *Policy E10 (Area of High Landscape Value)* states that the Council will protect the landscape value in respect of development by resisting development which would have an unacceptable adverse impact upon landscape quality or appearance of the area of high landscape value; and requiring that development respects the character of its landscape setting in terms of its siting, design and scale.
21. *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.

22. *Policy E16 (Protection and Promotion of Nature Conservation)* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
23. *Policy E18 (Sites of Nature Conservation Importance)* seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
24. *Policy E22 (Conservation Areas)* seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
25. *Policy H7 (City Centre Housing)* seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
26. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
27. *Policy H16 (Residential institutions and Student Halls of Residence)* provides for purpose-built accommodation provided that they are well related to local facilities and are not likely to impact adversely on adjacent development or lead to community imbalance.
28. *Policy T1 (Traffic – General)* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
29. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
30. *Policy T20 (Cycle facilities)* seeks to encourage appropriately located, secure parking provision for cyclists
31. *Policy T21 (Safeguarding the Needs of Walkers)* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.

32. 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.
33. Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
34. 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.
35. 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.
36. 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
37. *Policy U5 (Pollution Prevention)* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
38. *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.
39. 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.
40. Policy U13 (Development on Unstable Land) will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
41. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY

The County Durham Plan

42. 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.

43. The Council have in place an Interim Policy on Student Accommodation. Part B of the Council's Interim Policy on Student Accommodation relates specifically to purpose built student accommodation (PBSA). Part B of the Interim Policy states that new PBSA's should demonstrate need; that a development would not have a negative impact on retail, employment, leisure, tourism or housing uses; and requires consultation with the relevant education provider. Part B further states that proposals for PBSA development will not be permitted unless the development is readily accessible to an existing university or college; the design and layout would be appropriate in relation to neighbouring uses; the internal design, layout and standard of accommodation is of appropriate standard; the impacts from occupants of the development will not have unacceptable impact upon the amenity of surrounding residents; the quantity of cycle and car parking is in line with Council Parking and Accessibility Guidelines; and the applicant has shown that the security of the building is considered.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

44. *County Highways Authority* recommends that the application is refused on highway safety and amenity grounds.
45. *County Drainage Team* has not raised any objections to the scheme.
46. *Durham University* have objected to the proposed development.
47. *Historic England* has indicated that the application should be determined in accordance with national and local policy guidance.
48. *Natural England* has not raised any objections.
49. *Northumbrian Water* has not raised any objections however has recommended that a condition is imposed for details of surface water disposal from the site to be submitted.
50. *Police Architectural Liaison* has not submitted any objections to the proposed development however it is considered that the development will have negative impacts on existing residents as evidenced by the numerous objections.
51. *The Coal Authority* has confirmed that the site falls within the defined Development High Risk Area.
52. *Network Rail* has made comments in relation to drainage, boundary fencing, soundproofing, lighting and landscaping.
53. *Environment Agency* has not objected to the scheme.

INTERNAL CONSULTEE RESPONSES:

54. *Sustainable Travel* has confirmed that a travel plan is not required for this development.
55. *Sustainability Officer* has not raised any objections to the scheme.
56. *Environmental Management (Contamination)* has not raised any objections subject to a condition requiring the submission of a contamination site investigation report.
57. *Environmental Management (Noise)* has not raised any objections.
58. *Ecologist* cannot support the scheme as up to date bat surveys have not been submitted with the application.
59. *Design and Conservation* has indicated that the proposals would lead to less than substantial harm to the Conservation Area.
60. *Landscape Team* has raised concerns that the proposal would contradict planning policy.
61. *Tree Officer* has not raised any objections to the proposed scheme.

PUBLIC RESPONSES:

62. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. The scheme was amended in September 2016 and further re-consultation was undertaken on the revised scheme. In total 75 letters of representation have been received including letters from local residents, Sidegate and Elvet Residents Associations, Crossgate Community Partnership, Nevilles Cross Community Association, Durham City Neighbourhood Planning Forum, the World Heritage Site Co-ordinator, City of Durham Trust, Campaign to Protect Rural England, Councillor Ormerod and Roberta Blackman-Woods MP.
63. Concerns have been raised with regards to the adverse impact the proposal has on the surrounding area. These include harmful impacts on the World Heritage Site, the Conservation Area and encroachment into the Green Belt, resulting in loss of countryside. There are concerns that the proposal would impact on the railway line, drainage and land stability.
64. Objections have been raised in regards to the impacts the proposed development would have on the properties and residents of Diamond Terrace. Concerns relate to the loss of residential amenity including loss of privacy, overbearing issues and noise and light pollution. Residents have also indicated that they currently have a right of access over the vehicle access to the rear of Diamond Terrace.
65. It has been indicated that the proposal does not accord with planning policy including the Interim Policy on Student Accommodation. It is considered that the proposal would lead to unacceptable levels of student concentration in the area and that a precedent has already been set with the refusal of the student accommodation proposal at Kingslodge. It is not considered that there is a need for student accommodation in this location. It is also considered that the proposed site is unsustainable as there is no access to shops, services, colleges etc.

66. The proposed vehicle access from Framwellgate Peth is considered dangerous, as the proposal would result in an increase in traffic creating a highway safety issue. Concerns have been raised that the proposed development would adversely impact on protected species.
67. It has been raised that there are discrepancies within the application as information on the proposed plans contradicts information on the application form and in statements submitted with the application. It has also been claimed that the applicant does not own the entire application site.

APPLICANTS STATEMENT:

68. Full planning permission is sought for the above, and it is understood the Council's last position was to refuse the application for the following four reasons:
1. Encroachment into the Green Belt, contrary to Policy E1 of the City of Durham Local Plan;
 2. An increase in student concentration contrary to Policies H9 and H16 of the City of Durham Local Plan;
 3. The design, scale and massing would not preserve or enhance the Durham City Conservation Area, contrary to Policies E6 and E22 of the City of Durham Local Plan; and
 4. The detrimental impact on residential amenity, contrary to Policy Q8 of the City of Durham Local Plan.
69. In response the scheme has been significantly amended, and we contest that these revisions have resolved the above concerns in a manner consistent with the NPPF and Durham's development plan, or the benefits of development are material considerations that would warrant a departure from the plan.
70. Consequently, we respectfully request that the local planning authority resolves to grant planning permission for the proposed development, subject to any conditions deemed appropriate.

PLANNING CONSIDERATIONS AND ASSESSMENT

71. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to principle of development; impact upon the character, appearance and setting of Conservation Area, World Heritage Site, Green Belt and surrounding area; impact on residential amenity; highway safety; and ecology.

Principle of development

72. The application proposes the erection of a purpose built student accommodation development on brownfield land within Durham City Centre. The local plan has a specific policy, H16, which relates to student halls of residence and forms of residential institutions. Policy H16 states that planning permission will be granted for such developments provided that they are situated within close proximity to services and public transport links, satisfactory standards of amenity and open space are provided for occupiers, that the development does not detract from the character or appearance of the area or from the amenities of residents and finally with regards to student halls that they either accord with the provisions of Policy C3 or that the proposal would not lead to a concentration of students to the detriment of the amenity of existing residents.

73. Policy C3 of the local plan relates to development by the University of Durham, the University are not the applicant on this proposal and therefore this policy is not strictly relevant to this particular application. The proposal is not considered contrary to Policy H16 on sustainability grounds as the site is well located in terms of local services and within easy walking distance of bus routes, local shops and University buildings. Amenity and character/appearance impacts are considered later in this report.
74. The NPPF emphasises the need to ensure mixed and inclusive communities mentioned at paragraph 50 and encourages that development establishes a strong sense of place and sustains an appropriate mix of uses as detailed in paragraph 58.
75. Part B of the Council's Interim Policy on Student Accommodation relates specifically to purpose built student accommodation (PBSA). The proposal is for a PBSA and therefore needs to be assessed against the criteria in this policy. Part B of the Interim Policy states that new proposals will be required to demonstrate need for additional student accommodation; that the proposal would not have a significant negative impact on other uses; and that consultation has been undertaken with the relevant education provider.
76. The existing building on site is currently occupied by Durham Christian Partnership. Whilst it is acknowledged that the proposed development would, in part, be the development of brownfield land, it would result in the loss of an existing business. This would therefore not accord with the Interim Policy as it would have a negative impact on an employment use. It is also noted that no evidence has been provided which shows consultation with an education provider in particular Durham University. Nevertheless, the University have been consulted by Officers as part of the planning process and have commented on the scheme indicating that they do not support the application by stating *'while the changes in the growth forecasts for the University suggest that there may be a need for additional student accommodation over the next ten year period – the emerging Masterplan for the University does not indicate that additional student accommodation would be best placed in this location i.e. some distance from University facilities and the City Centre.'* It is considered that there is not a need for student accommodation in this location. The proposal would result in the loss of an existing employment use and would not maintain a mixed or balance community.

Impact upon the character, appearance and setting of Conservation Area, World Heritage Site, Green Belt and surrounding area

77. Part of the application site is located within the Durham City Green Belt. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open.
78. Local plan policy E1 (Green Belt) clearly states that the construction of new buildings within the Green Belt other than those listed below amount to inappropriate development and will not be permitted except in very special circumstances. Those forms of development which are not inappropriate are agriculture or forestry; outdoor sport and recreation; limited infilling; replacement of an existing building; re-use or conversion of an existing building; or limited extensions to existing dwellings. The proposed development of a PBSA does not fall within any of these exceptions and therefore the proposals amounts to inappropriate development in the green belt.
79. The NPPF also has specific policies in relation to Green Belt development which states that inappropriate development is by definition harmful and should not be approved except in very special circumstances.

Very special circumstances will not exist unless the potential harm to the greenbelt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It will therefore be necessary to balance the harm to the greenbelt by reason of inappropriateness, and any other identified harm, against any benefits of the proposal to reach a conclusion on whether the harm is clearly outweighed.

80. There are currently no buildings located on the section of Green Belt land which is in the site. Over half of the development is proposed to be located within the Green Belt area. Clearly the proposed development would have a significant impact on the openness of the Green Belt.
81. It is noted that the proposed development has been revised from the original submission and the scale and massing of the proposal has been reduced which is a step in the right direction. The contemporary design approach of the proposed scheme does not however does not necessarily respond to the landscape and the local vernacular. It can be considered that the proposed development does not preserve or enhance the character, appearance or setting of the Durham City Conservation Area, in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Principal Design and Conservation Officer has stated that the proposals would lead to a less than substantial harm to the conservation area. Paragraph 134 of the NPPF states that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.'* It is not considered that the proposal for a PBSA brings any significant public benefit which would outweigh the less than substantial harm created by the proposed development.
82. The World Heritage Site Co-ordinator has objected to the scheme on the basis that the proposals have a negative impact on the World Heritage Site (WHS) and its setting and for the harm that would be caused by the substantial and large scale repetitive blocks to the quality of the WHS setting and the sites Outstanding Universal Value.

Impact on residential amenity

83. A key issue is the suitability of the site for the development having regards to the impacts upon residential amenity, more broadly regarding the potential for disturbance and noise through the concentration of students but also with regards to specific relationships with the closest properties.
84. Policy H16 of the Local Plan states student hall developments that would result in a concentration of students that would adversely detract from the amenities of existing residents will not be considered acceptable development. This is supported by Policy H13 which states that planning permission will not be granted for development that would have an adverse impact upon the character of residential areas or the amenities of residents within them. Paragraph 50 of the NPPF refers to the need to create sustainable, mixed and inclusive communities and paragraph 58 within the design section of the NPPF emphasises the need to create safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion.
85. The issue of the dense concentration of students and impact this may have on the residential amenity of the surrounding area is a material consideration. Whilst such behaviour associated with students often gets exaggerated along with the frequency and magnitude it is important for the confidence of all to have a well-defined management plan.

A management plan has not been submitted with the planning application. Whilst a suitably worded planning condition would ensure that a well-defined management plan could be provided and agreed at a later date. The application does not provide any confidence to local residents at this stage that the proposed development would be managed in an appropriate manner ensuring no harm to existing levels of residential amenity. From the high levels of objections received from local residents, it is evident that there is a substantial concern regarding impacts on residential amenity. It is noted however planning conditions can be imposed requiring the submission of a suitable management plan to be submitted and agreed, therefore it is not considered that a refusal reason on residential amenity could be justified in this instance.

86. Policy Q8 considers that in order to provide adequate levels of amenity and in order to maintain privacy, 21 metres should be achieved between main windows serving habitable rooms. The original scheme did not achieve these separation distances between the proposed development and the properties on Diamond Terrace. The excessive height of the original scheme also created overbearing concerns in relation to the Diamond Terrace properties. The amended scheme shows a reduction in the height of the proposed buildings and a relocation of the buildings taking them further away from Diamond Terrace. It is considered that the separation distance is now acceptable and would provide ensure adequate levels of privacy. The reduction in the height and massing of the proposed buildings would also ensure that there would be no adverse impacts created in terms of overbearing impacts.

Highway safety

87. The Council's Highways Manager has raised concerns relating to access and parking; and has recommended that the application is refused on highway safety and amenity grounds.
88. The Highways Manager has indicated that vehicular access to Diamond Terrace is not good for this site with tight radii and limited width. The access as proposed is likely to result in turning vehicles waiting on the highway, with consequent risk of hazard to all highway users. The application site sits within the City's Controlled Parking Zone and the Council's parking standards do not require any parking for student accommodation.
89. Without parking control there would be the potential for increased and obstructive parking which in theory could cause problems on Framwellgate Peth if vehicles experienced restricted entry flow. No indication has been given how this would be addressed. There are 7 residential properties with existing parking demand in Diamond Terrace. A group of 5 parking spaces have been indicated outside the red line boundary in an area of sloping unmade land and in front of existing dilapidated garden sheds (Three indicated on the layout drawing but only 2 exist on site). It is possible that existing residential demand could increase above this level of provision indicated. In addition current signage indicates the existing land near the entrance is private parking and approximately 6 vehicles associated with the existing establishment at Mainstreet USA park on a daily basis. There is no clarification within the application about the existing residential and business parking demand and how this is to be accommodated. Without any suitable alternative it would be expected that a minimum of 9 parking spaces be made available to meet potential existing residential demand and indication of how business use will be catered for.

90. 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.
91. 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.
92. A bat survey of the site has been submitted with the application which records that the building on site is a known bat roost and further recommends that three emergence/re-entry bat surveys are carried out in support of the demolition of the building. These further surveys have not been submitted with the planning application and subsequently the Council Ecologist has indicated that planning permission should not be granted. Without evidence that the demolition of the existing building would not adversely impact on protected species or their habitats, Officers are unable to discharge the relevant statutory duties and the proposal is considered to be contrary to part 11 of the NPPF and policy E16 of the local plan.

Other issues

93. The Council's Drainage Team, Environmental Management Officers, Coal Authority, Network Rail, Northumbrian Water and the Environment Agency have not raised any objections to the proposed scheme however conditions are recommended for further information to be submitted and agreed prior to any development works.

CONCLUSION

94. The proposed development would result in the loss of an existing employment use to be replaced by student accommodation which would not maintain a mixed or balanced community within the immediate locality. Durham University have also stated that there is not a need for student accommodation in this location. The proposal is therefore considered unacceptable in principle and would be contrary to parts of section 6 and 7 of the NPPF, policies H13 and H16 of the local plan and criteria detailed in the Council's Interim Policy on Student Accommodation.
95. It is acknowledged that the proposed scheme has been reduced in height, massing and scale from the original submission however it is still considered that the development would have less than substantial harm on the conservation area and surrounding area. The World Heritage Site Co-ordinator maintains that the proposal would have a negative impact on the WHS. It is not considered that a PBSA scheme would not provide significant public benefits to overcome these concerns and the proposal is therefore considered to be contrary to section 12 of the NPPF, policies E3, E6, E10 and E22 of the local plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

96. There have been significant objections from local residents raising concerns on impacts on residential amenity. The absence of a student management plan with the application would not have helped with the trepidation of local residents. It is noted however planning conditions can be imposed requiring the submission of a suitable management plan to be submitted and agreed, therefore it is not considered that a refusal reason on residential amenity could be justified in this instance. The scheme has also been amended so it now accords with standard separation distances and therefore no loss of privacy or overbearing impacts would be created.
97. The Council's Highways Manager has objected to the scheme and raised concerns with regards to the proposed access and lack of parking provision for the residential properties and businesses in the immediate locality. It is therefore considered that the proposed development would have an adverse impact on highway safety and the proposal would be contrary to policies T1, T10 and T21 of the local plan.
98. A bat survey has been submitted with the application however this report recommends further surveys to be undertaken of the existing building on the site as it is a known bat roost. These additional surveys have not been submitted with the application and the County Ecologist therefore raises objections to the proposed scheme. Without evidence that the demolition of the existing building would not adversely impact on protected species or their habitats, the proposal is considered to be contrary to part 11 of the NPPF and policy E16 of the local plan.
99. Over half of the proposed development would be located within the Durham City Green Belt. National and local planning policy clearly states that new development in Green Belts is inappropriate. The proposed development is not considered to be an exception and the proposed buildings would adversely impact on the openness of the Green Belt. The proposed development is unacceptable in principle and would be contrary to policy E1 of the local plan and part 9 of the NPPF.

RECOMMENDATION

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

1. The proposed development would result in the loss of an existing employment use and would not maintain a mixed or balanced community within the immediate locality contrary to parts of section 6 and 7 of the National Planning Policy Framework, policies H13 and H16 of the City of Durham Local Plan and criteria detailed in the Council's Interim Policy on Student Accommodation.
2. The proposed development is contrary to Policy E1 of the City of Durham Local Plan and Part 9 of the National Planning Policy Framework as the proposal is for inappropriate development in the Durham City Green Belt and there are no very special circumstances which clearly outweigh the harm by reason of inappropriateness and other harm.
3. The proposed layout and form of the development would be unacceptable and would not preserve or enhance the setting, character or appearance of the Durham City Conservation Area and it would have a negative impact on the setting of the World Heritage Site contrary to section 12 of the National Planning Policy Framework and policies E3, E6, E10 and E22 of the City of Durham Local Plan.
4. Due to poor vehicular access and insufficient parking provision the proposal would compromise highway safety and amenity contrary to policies T1, T10 and T21 of the City of Durham Local Plan.

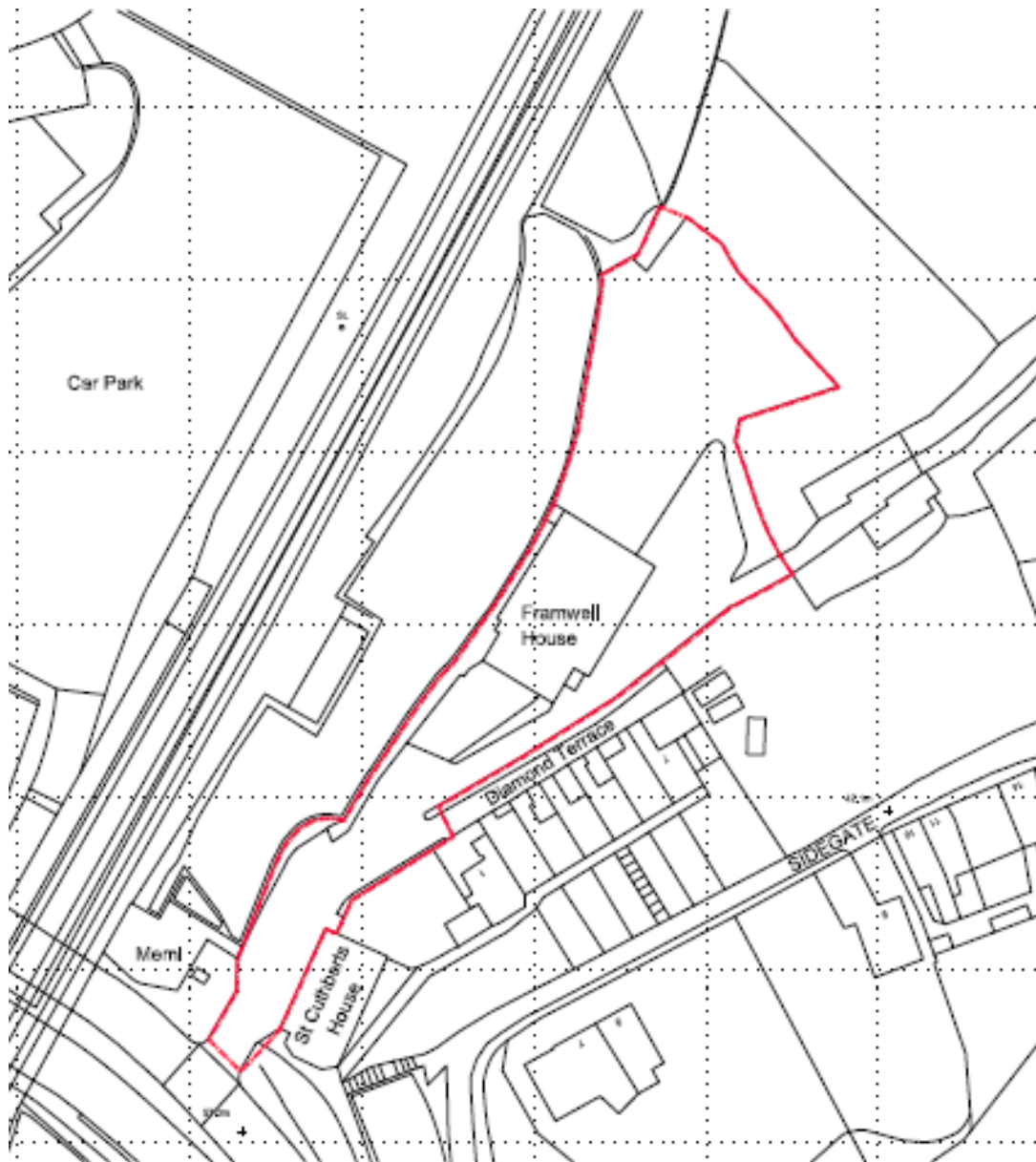
5. Insufficient evidence has been submitted to ensure that protected species or their habitats would not be adversely affected by the proposed development and the proposal is contrary to part 11 of the National Planning Policy Framework and policy E16 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision 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 and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance
County Durham Plan (Submission Draft)



Planning Services

Demolition of existing building and proposed new build for student accommodation at 3 Fram Well House, Diamond Terrace, Durham, DH1 5SU Ref: DM/15/02129/FPA

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Date
13th December 2016

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/02537/FPA
FULL APPLICATION DESCRIPTION:	Construction of 60 bedroom student accommodation
NAME OF APPLICANT:	Mr Paul Thapar
ADDRESS:	Land at Holly Street, Durham, DH1 4DE
ELECTORAL DIVISION:	Neville's Cross Chris Baxter Senior Planning Officer
CASE OFFICER:	03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is an area of land located between Holly Street and John Street in Durham City which is also known as Nelsons Yard. The site is a redundant parcel of land and has been for a number of decades now.
2. The site lies within the Durham City Conservation Area and is also approximately 500 metres from the Durham Castle and Cathedral World Heritage Site. The terraced properties on Holly Street are located to the west of the site. John Street to the east of the site is set at a lower level to Holly Street. John Street is predominantly terraced properties however there is also a bungalow and a church. To the north of the site is the railway line and the railway embankment with trees and shrubbery. To the south there are further terraced properties located on Hawthorn Terrace and Colpitts Terrace which are Grade II Listed buildings.

The Proposal

3. Planning permission is sought for the erection of a 60 bedroom purpose built student accommodation (PBSA). The development would include 49 grouped beds with students sharing a lounge/kitchen area of no more than 6 beds; and 11 self-contained studio flats. On Holly Street the development would be two and half storey with dormer windows in the roof and on John Street (which is set at a lower level) the development would be three and half storey in height. Rotunda features are proposed at either end of the proposed development. The proposed materials will predominately be red facing brickwork with a slate roof to match the surrounding local style. Elements of stonework and render will also be utilised on other sections of the proposed building including the rotundas.
4. This application is referred to the Planning Committee as it constitutes a major planning application.

PLANNING HISTORY

5. Planning applications for residential schemes were submitted in 2007 and 2008 which were subsequently approved. These permissions have now lapsed.

PLANNING POLICY

NATIONAL POLICY:

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
8. The following elements are considered relevant to this proposal;
9. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
10. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
11. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing application should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
12. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
13. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

14. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
15. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
16. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

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

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

LOCAL PLAN POLICY:

City of Durham Local Plan

17. *Policy E3 (World Heritage Site) Protection* seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
18. *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.
19. *Policy E14 (Trees and Hedgerows)* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
20. *Policy E16 (Protection and Promotion of Nature Conservation)* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.

21. *Policy E18 (Sites of Nature Conservation Importance)* seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
22. *Policy E22 (Conservation Areas)* seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
23. *Policy E23 (Listed Buildings)* seeks to safeguard listed buildings and their settings.
24. *Policy H7 (City Centre Housing)* seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
25. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
26. *Policy H16 (Residential institutions and Student Halls of Residence)* provides for purpose-built accommodation provided that they are well related to local facilities and are not likely to impact adversely on adjacent development or lead to community imbalance.
27. *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.
28. *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.
29. *Policy T20 (Cycle facilities)* seeks to encourage appropriately located, secure parking provision for cyclists
30. *Policy T21 (Safeguarding the Needs of Walkers)* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
31. *Policies Q1 and Q2 (General Principles Designing for People and Accessibility)* states that the layout and design of all new development should take into account the requirements of all users.
32. *Policy Q3 (External Parking Areas)* requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.

33. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
34. Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
35. Policy 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
36. *Policy U5 (Pollution Prevention)* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
37. *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.
38. 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.
39. Policy U13 (Development on Unstable Land) will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
40. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY

The County Durham Plan

41. 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.

42. The Council have in place an Interim Policy on Student Accommodation. Part B of the Council's Interim Policy on Student Accommodation relates specifically to purpose built student accommodation (PBSA). Part B of the Interim Policy states that new PBSA's should demonstrate need; that a development would not have a negative impact on retail, employment, leisure, tourism or housing uses; and requires consultation with the relevant education provider. Part B further states that proposals for PBSA development will not be permitted unless the development is readily accessible to an existing university or college; the design and layout would be appropriate in relation to neighbouring uses; the internal design, layout and standard of accommodation is of appropriate standard; the impacts from occupants of the development will not have unacceptable impact upon the amenity of surrounding residents; the quantity of cycle and car parking is in line with Council Parking and Accessibility Guidelines; and the applicant has shown that the security of the building is considered.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

43. *County Highways Authority* has not raised any objections to the proposed scheme.
44. *County Drainage Team* has not raised any objections to the proposed scheme and has recommended that sustainable drainage systems are implemented.
45. *Historic England* has not raised any objections in principle to the development. Some design changes have been recommended to the scheme.
46. *Environment Agency* has not raised any objections.
47. *Northumbrian Water* has not raised any objections however has recommended that a condition is imposed relating to the implementation of the drainage scheme which has been submitted with the application.
48. *Police Architectural Liaison* has confirmed that the proposed scheme would achieve a Secure by Design certificate.
49. *The Coal Authority* considers that the content and conclusions of the Phase 1: Desk Top Study Report are sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable for the proposed development.
50. *Durham University* have not commented on the scheme.

INTERNAL CONSULTEE RESPONSES:

51. *Archaeology* has not raised any objections.
52. *Sustainability Officer* has not raised any objections to the scheme.
53. *Environmental Management (Contamination)* has not raised any objections subject to a condition requiring the submission of a contamination site investigation report.
54. *Environmental Management (Noise/dust)* has not raised any objections subject to the imposition of planning conditions relating to noise.

55. *Environmental Management (Air Quality)* has not raised any objections.
56. *Ecologist* has not raised any objections to the proposed development.
57. *Design and Conservation* has not raised any objections to the proposed scheme indicating that the character and appearance of the conservation area will be enhanced by the grouping and massing of the proposed building.
58. *Landscape Team* has not raised any objections to the proposed scheme.
59. *Tree Officer* has not raised any objections to the proposed scheme.
60. *Spatial Planning Policy* has indicated that the percentage of student accommodation in the area is 91% and as such an argument could be made either way as to whether or not this affects the amenity of existing residents as given the high concentrations already, would a new build student development in this location materially change matters.
61. *Public Right of Way* has not raised any objections to the proposed scheme, advice has been offered in relation to works to the unrecorded footpath linking Hawthorn Terrace with John Street.

PUBLIC RESPONSES:

62. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. 15 letters of representation have been received from local residents, City of Durham Trust Durham City Neighbourhood Planning Forum, Campaign to Protect Rural England and Roberta Blackman-Woods MP.
63. Concerns are raised in relation to the overconcentration of students and the potential for anti-social behaviour which can arise from students living in the area. It is considered that the proposal would not accord with national and local planning policies including the Council's Interim Policy on Student Accommodation. There is not considered to be a need for further student accommodation.
64. The proposed development is considered to have an unacceptable design, being overdevelopment of the site and not in keeping with the surrounding area, therefore adversely impacting upon the conservation area. It is considered that the development would result in loss of light to neighbouring properties and also contribute to the existing drainage problems and health hazard in the area with bins and rubbish along John Street.
65. The proposal will compromise highway safety as it is considered there will be an increase in traffic leading to parking issues. There is no turning head at the end of John Street which creates issues for refuse collection. It has also been noted that the proposed cycle parking provision is unnecessary as students would not use them. The student management plan submitted with the application is considered to be unacceptable.

APPLICANTS STATEMENT:

66. This scheme is for PBSA in an area which is well located for university facilities and is already dominated by student accommodation in HMOs. The site has been empty for years and its derelict condition is a detractor from the character and appearance of this part of the Conservation Area.

67. The scheme has been designed in keeping with the robust residential character of the Hawthorn Terrace sub-area of the Conservation Area and to reflect the uniform, symmetry and rhythm of the terraces. Design references such as the curving Colpitts Terrace, stone plinth, strong ordered fenestration, traditional roofscape and enclosed yards all add to the interest of the building.
68. Given this scheme is a substantial investment in a derelict and prominent site I find that it will have a positive impact on the heritage asset of the Conservation Area.
69. Government policy is to increase student numbers and boost the supply of housing including PBSA. The inevitable result is an increase in the demand for such housing in Durham.
70. There is no requirement in statutory policy to demonstrate demand for student accommodation in this area. But even if there was, there is an acknowledged shortfall in student accommodation and an immediate need to provide for increasing student numbers. On existing projections there is a modest shortfall and even a notional 7% increase in student numbers will result in undersupply within the next 4 years.
71. On balance I see no harm arising from this Scheme and significant benefits in terms of investment and regeneration. For those reasons permission should be granted.

PLANNING CONSIDERATIONS AND ASSESSMENT

72. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to principle of development; impact upon the character, appearance and setting of conservation area, listed buildings and surrounding area; impact on residential amenity; highway safety; and ecology.

Principle of development

73. The application proposes the erection of a purpose built student accommodation development on land within Durham City Centre. The proposal would therefore be in accordance with the sustainable principles of the NPPF as the proposal demonstrates an efficient use of land with good access to services and public transport.
74. The local plan has a specific policy, H16, which relates to student halls of residence and forms of residential institutions. Policy H16 states that planning permission will be granted for such developments provided that they are situated within close proximity to services and public transport links, satisfactory standards of amenity and open space are provided for occupiers, that the development does not detract from the character or appearance of the area or from the amenities of residents and finally with regards to student halls that they either accord with the provisions of Policy C3 or that the proposal would not lead to a concentration of students to the detriment of the amenity of existing residents.

75. Policy C3 of the local plan relates to development by the University of Durham, the University are not the applicant on this proposal and therefore this policy is not strictly relevant to this particular application. The proposal is not considered contrary to Policy H16 on sustainability grounds as the site is well located in terms of local services and within easy walking distance of bus routes, local shops and University buildings. Impact on amenity and character/appearance of the area are considered later in this report.
76. The NPPF emphasises the need to ensure mixed and inclusive communities mentioned at paragraph 50 and encourages that development establishes a strong sense of place and sustains an appropriate mix of uses as detailed in paragraph 58. The Council's Spatial Planning Policy Team has confirmed that the postcode which covers the application has 91% student accommodation with the surrounding postcodes ranging from 67% to 100% student exempt properties. The Spatial Policy Team has further stated that it could be argued that the construction of this property would lead to a concentration that would adversely detract from the amenities of existing residents. However the percentages are so high it could equally be argued that there is so much student accommodation in the area that the construction of a completely new block would have limited impact on existing residents.
77. Part B of the Council's Interim Policy on Student Accommodation relates specifically to purpose built student accommodation (PBSA). The proposal is for a PBSA and therefore needs to be assessed against the criteria in this policy. Part B of the Interim Policy states that new PBSA's should demonstrate need; that a development would not have a negative impact on retail, employment, leisure, tourism or housing uses; and requires consultation with the relevant education provider. The planning statement submitted with the application does provide information in relation to the need for additional student accommodation which refers to the University Residential Accommodation Strategy 2012. The site is currently redundant and the scheme would not have any obvious negative impacts on retail, employment, leisure or tourism uses. Impacts on surrounding residential uses are discussed elsewhere in this report. There is no evidence that the University has been formally consulted on the proposed scheme although the applicant has indicated that verbal discussions have been taken place. Officers have consulted the University as part of the planning process and no response has been received.
78. When assessing the proposed development against national and local policies, including the Interim Policy, it is noted that there are elements of the scheme which are supported by planning policy and some which do not strictly comply with policy. The proposal would clearly comply with the core aim of the NPPF to provide sustainable development on brownfield land. The site has been a redundant vacant site for a number of decades and therefore the development of the site would provide significant regeneration benefits. The site is also well related to shops, services and public facilities including public transport. The scheme would clearly introduce more students into the area and would impact on student concentration levels. Concerns have been raised by residents that the proposals would lead to unacceptable levels of student concentrations. The harm and benefits of the scheme therefore need to be carefully balanced and this is discussed in more detail later in this report.
79. It is noted that a residential scheme has been approved on this site approximately 8 years ago. This residential scheme was never implemented and subsequently the permissions have expired. A viability assessment has been submitted by the developer indicating that the residential scheme was not viable and the site is now only viable for a student scheme.

80. The site lies in the Hawthorn Terrace sub character area of the Durham City Conservation Area, a designated asset of considerable significance and any proposals would need to meet the statutory tests within Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is characterised by tightly knit Victorian streets. The main access road Hawthorn Terrace is a wide terrace street framed by mainly two storey townhouse. Running at right angles to it, in a north south direction are Laburnum, Lawson, Mistletoe Street and the site itself at Holly Street. John Street runs close by off the A690 in a westerly direction. All these streets are characterised by a tight grid of terraces with narrow frontages and strong building line. The red brick frontages feature key distinctive features, symmetrical fenestration patterns of sash windows and panelled doors and the Welsh slate roofs are punctuated by chimney stacks. The uniform character of the terraces extends to include back lanes and enclosed rear yards and brick built boundary walls. Other designated assets include close by at the end of Hawthorn Terrace, Colpitt's Terrace dating back to 1856, this is a curving terrace of elegant two storey, two bayed properties constructed from coursed square sandstone. Their historic and architectural merit is reflected in the whole terrace being Grade II listed. At the end of the terrace is Colpitts Hotel, a Grade II listed public house with its notable curved roof and elegant fenestration.
81. The Council's Design and Conservation Officer has commented on the proposed scheme in detail. It is considered that the scale and massing of the scheme would be in keeping with the robust grain of the surrounding conservation area and relates well to the existing buildings in bulk and built form. The frontages onto Holly Street are uniform and the scheme maintains the strong rhythm of the terrace but the stepped terraces and the broken ridge helps to deal with the changes in level, reduces the massing and adds interest to the roofscape. Chimneys have been added to punctuate the roofline and are a key feature in the Victorian terraces. The symmetrical fenestration is ordered to match the existing terraces; having paired windows and artstone sills and lintels throughout is in keeping with some of the mullion windows elsewhere in the Conservation Area.
82. The significant changes in levels across the site are addressed by changes in floor level of half a storey between Holly and John Street. The awkward triangular shape of the site with acute corners is successfully modulated by the introduction of rotundas; these reflect the curved elevations elsewhere on corner plots such as the Colpitts nearby. In John Street the new development has strong uniform elevations stepped broken up blocks and elements with strong gables, elevated and interesting roofscape and robust wall like built form terraces and from John Street as strong gables, elevated but interesting roofscapes and a strong wall like built form. The red brick walls and slate roofs and the brick chimneys and pots pick up the traditional materials of the Conservation Area. The fenestration is regular and traditionally proportioned and the aluminium recessed window and door openings provide a modern straight forward design approach. Brick and sandstone are common throughout this area and the use of artstone for the sills, heads, mullions and for the rotundas will complement the surrounding red multi brick Victorian Terraces. The Design and Conservation Officer has indicated that the impact on the adjacent listed buildings would be limited as the development is mainly concealed by the existing terraces in Hawthorn Street and Holly Street. The south east rotunda will be visible from the designated and non-designated assets but will provide an attractive landmark on this busy pedestrian corner and will be a welcoming feature.

83. The site is currently redundant and has been empty for a number of decades. The development will therefore result in the loss of a site which makes no positive contribution to the surrounding conservation area and therefore the development would significantly enhance the character and appearance of the Durham City Conservation Area as well as the nearby listed buildings.
84. Details submitted with the application indicate that the proposed materials will primarily be red brick with natural slate roofing with elements of render and stone. The Design and Conservation Officer has indicated that further details are required in relation to boundary treatment, hard surfacing and landscaping areas. Conditions are therefore recommended for further details to be submitted.

Impact on residential amenity

85. A key issue is the suitability of the site for the development having regards to the impacts upon residential amenity, more broadly regarding the potential for disturbance and noise through the concentration of students but also with regards to specific relationships with the closest properties.
86. Policy H16 of the Local Plan states student hall developments that would result in a concentration of students that would adversely detract from the amenities of existing residents will not be considered acceptable development. This is supported by Policy H13 which states that planning permission will not be granted for development that would have an adverse impact upon the character of residential areas or the amenities of residents within them. Paragraph 50 of the NPPF refers to the need to create sustainable, mixed and inclusive communities and paragraph 58 within the design section of the NPPF emphasises the need to create safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion. The Interim Policy also states that proposals for PBSA's should not be permitted unless the impacts from occupants of the development will not have an unacceptable impact upon the amenity of surrounding residents in itself.
87. The issue of the dense concentration of students and impact this may have on the residential amenity of the surrounding area is a material consideration. Whilst such behaviour associated with students often gets exaggerated along with the frequency and magnitude it is important for the confidence of all to have a well-defined management plan. A student management plan has been submitted with this planning application. It is also noted that an approved and experienced student accommodation management company will be appointed to under the management of the site. The management plan proposes to implement measures including day to day management of communal areas and individual rooms; tenancy agreements; traffic management with moving in and out procedures; and community and University liaison.
88. It is fair to say that a dense residential nonstudent apartment scheme as well as HMO's will raise from time to time some disruptive behaviour without the control of a strong management structure, relying purely on other legislative controls. Notwithstanding existing controls the management plan and company will be the first recourse and as such this is considered an effective method of controlling such behaviour should it occur, aided by two way communication with community representatives. A condition is recommended to ensure that the student management plan is implemented and maintained in perpetuity.

89. In order to ensure satisfactory levels of privacy are maintained, policy guidance recommends that separation distances of 21 metres should be achieved between windows serving habitable rooms and 13 metres between habitable and non-habitable windows. The separation distance between the existing properties on Holly Street and the proposed windows in the PBSA would be 11 metres between habitable windows. It is noted that the surrounding area is characterised by terraced properties and the typical separation distance between habitable windows is 11 metres. Given a 11 metre separation distance is typical in the surrounding area, it is considered that the 11 metre separation distance proposed at Holly Street can be considered acceptable in this instance. It is noted that there is a habitable bedroom window on the gable elevation of No. 10 John Street and this would be located 6 metres from a proposed three storey projection of the development. This element of the scheme has been specifically designed with angled windows which would ensure there would be no direct loss of privacy to the bedroom window in No. 10 John Street. Given the separation distance is only 6 metres however, it is considered that the bedroom window in the gable elevation of No. 10 John Street would result in overbearing and overshadowing impacts which would likely have an adverse impact on residential amenity.
90. The bungalow on John Street (which is named The Bungalow) is located directly to the north of the site and has habitable windows overlooking the site. The Bungalow is sited 8 metres from another three storey projection of the proposed development. This three storey projection does not have any windows which would directly overlook the Bungalow which would ensure there would be no loss of privacy. This element of the proposed development has been significantly reduced in height since the original revisions of the scheme however a separation distance of 8 metres is considered to be below standards. It is considered that occupiers of the Bungalow would likely be adversely affected by the proposed development in terms of overbearing and overshadowing impacts.
91. It is acknowledged that the separation distances fall short when measured against two properties in John Street and can be considered to be contrary to policy Q8 of the local plan. However, having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, other material planning considerations can be considered to outweigh this issue. In this instance, it is considered that benefits which the scheme brings relating to positive impacts on the conservation area and highway safety (discussed in other sections of this report) would outweigh the negative impacts in relation to residential amenity.

Highway safety

92. The proposed development is within an accessible location being close for pedestrians, cyclist and public transport users to city centre transport hubs and facilities. No parking spaces are to be provided for residents other than the provision of a disabled parking. The Highways Manager has indicated that the development is within the City's controlled parking zone and therefore the lack of resident parking is acceptable. The development includes 38 cycle parking spaces within the lower ground floor accessed from John Street and this is considered acceptable.
93. The existing arrangement is that refuse collection presently takes place with vehicles reversing from the A690 into John Street. An autotrack plan has been submitted with the application which shows that a refuse collection truck will be able to turn round at the end of John Street and therefore leave John Street in a forward motion. The Highways Manager is satisfied with this arrangement.

94. The developer has also offered as part of the scheme to improve the footpaths areas around the development site which include the footway links from Holly Street to John Street at the north of the site and the footway link from Hawthorn Terrace to John Street to the south east of the site. Both these footways are unrecorded paths. The Council's Public Rights of Way Officer has commented indicating that the upgrade of these footway links are welcomed however the introduction of steps, as shown on the proposed plans, would not be acceptable. It is suggested that the footway links are simply resurfaced with tarmac to provide a ramp. The introduction of a chicane should also be installed to slow cyclists in the interests of highway safety. A planning condition is recommended for further details of the footway improvements to be submitted for agreement prior to development commencing.

Ecology

95. 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.

96. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and where the proposed development is likely to result in an interference with an EPS must consider these tests when deciding whether to grant permission. 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.

97. An Ecology Survey of the site has been submitted with the application. This survey indicates that there is low habitat for protected species on the site. The submitted survey has been analysed by the County Ecologist. The County Ecologist has confirmed that there are no objections to the findings of the survey. Subsequently it is not considered that the proposed development would have an adverse impact on protected species or their habitats and therefore there is no need to consider whether an EPS licence would be granted. The development would be in accordance with part 11 of the NPPF.

Other issues

98. The Council's Drainage Team, the Environment Agency and Northumbrian Water have not raised any objections to the proposed scheme. A flood risk assessment and drainage scheme has been submitted with the application. Northumbrian Water have indicated that a condition should be imposed on any permission granted for the drainage scheme detailed in the submitted assessment to be adhered to.

99. A phase 1 desk top study report has been submitted with regards to coal mining in the area and on the site. The Coal Authority have assessed this report and have not raised any objections. Should permission be granted it is recommended that a condition is imposed ensuring the development is constructed in accordance with findings of this report.

100. Ground Investigation Reports have been undertaken in respect of contamination on the site. The Council's Contamination Officer has been consulted and has assessed these reports, and the Officer is satisfied with the findings.

101. Whilst it is noted that there are some landscaped public areas designed into the proposed scheme, there is no formal open space or public recreational space proposed. In accordance with policies R1 and R2 of the local plan financial contributions towards open space provision within the area can be sought from the developer and this can be sought by a section 106 legal agreement. The Council also encourage the provision of artistic elements in the design and layout of new development. In accordance with Q15 contributions towards public art can also be secured through section 106 legal agreement. It is therefore recommended that permission is granted subject to the completion of a section 106 legal agreement for contributions towards open space, recreational facilities and public art within the near locality. These contributions would be in accordance with policies R1, R2 and Q15 of the local plan.

CONCLUSION

102. The proposed development would comply with the core aim of the NPPF to provide sustainable development on brownfield land. The site is well related to shops, services and public facilities including good public transport links. The site has been redundant for a number of decades now and is considered a blight on the area. The proposal would bring significant regeneration benefits as it would remove a redundant site which is detracting from the area. The proposal is therefore considered to be in accordance with the core sustainable principles of the NPPF as well as according with parts of policy H16 of the local plan.
103. The proposed scheme would introduce more students into an area which already has high levels of students concentration. The Councils Spatial Planning Policy Team has indicated that the postcode area for the site has 91% student accommodation. It could be argued that the development would lead to a concentration that would adversely detract from the amenities of existing residents, however given the concentration levels are so high it could equally be argued that the new student block would have limited impact. There is therefore an argument that the proposal could be contrary to parts of policy H16 of the local plan relating to student concentration levels adversely impacting on residential amenity. Officers consider in this instance that the proposal would be contrary to policy H16 of the local plan.
104. The Interim Policy on Student Accommodation states that new PBSA's should demonstrate need; that a development would not have a negative impact on retail, employment, leisure, tourism or housing uses; and requires consultation with the relevant education provider. The planning statement submitted with the application does provide information in relation to the need for additional student accommodation which refers to the University Residential Accommodation Strategy 2012. The site is currently redundant and the scheme would not have any obvious negative impacts on retail, employment, leisure or tourism uses. There is no evidence that the University has been consulted on the proposed scheme although the applicant has indicated that verbal discussions have been taken place. The University have been consulted on the proposed development and no response has been received.
105. The proposal does bring clear benefits in relation to enhancing the character, appearance and setting of the Durham City Conservation Area as well as having a positive impact on the adjacent listed buildings. The site is currently redundant and has a significant detrimental impact on the conservation area and the surrounding area as a whole.

The proposed development is supported by the Council's Design and Conservation Team and would introduce a quality development which would be in keeping with the robust grain of the built form in this area. The proposed development would enhance the character, appearance and setting of the Durham City Conservation Area and would have a positive impact on the adjoining listed buildings. Overall the proposal is considered to be in accordance with policies E3, E6, E23 and E22 of the local plan and in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

106. It is not considered that the proposed development would create adverse harm to residential amenity with regards to the influx of the number of students into the area. A student management plan has been submitted with the planning application and the implementation of this management plan would be conditioned should permission be granted. Whilst the majority of the separation distances between the proposed building and existing properties are considered acceptable there are two arrangements which are unacceptable. There is a six metre separation distance between a habitable window in No. 10 John Street and the proposed development. There is also an 8 metre separation distance between habitable windows in the Bungalow on John Street and the proposed development. Whilst these arrangements do not compromise privacy levels they would have a detrimental impact on amenity in terms of overbearing and overshadowing issues. The proposal would therefore be considered to be contrary to part 2 of policy Q8 of the local plan in relation to loss of amenity for neighbouring occupants.
107. The site is considered to be in a sustainable location with good pedestrian and public transport links to shops, services and public facilities. Improvements to the surrounding pavements are to be made which will be to the benefit of pedestrians. The development would allow the refuse collection truck to turn in John Street and exit in a forward motion which is considered a significant improvement to the existing arrangement. It is considered that the proposed development would not have an adverse impact on highway safety in the area and the proposal would be in accordance with policies T1, T10 and T21 of the local plan.
108. As described in the paragraphs above, the proposed development is considered to be in accordance with some planning policy yet is also contrary to other planning policies. The acceptability of the proposed scheme requires careful consideration and needs to be a balanced decision taking account of all the positive and negative of the schemes. The proposed development does bring significant improvements in terms of the regeneration of a redundant site which would positively impact on the Durham City Conservation Area and adjacent listed buildings. The development also brings highway benefits as surrounding footways would be improved and John Street would be reconfigured at the development site end to allow refuse trucks to turn and exit John Street more safely in a forward direction. The negatives to the scheme is that the proposal would introduce additional students into an area which already has a high concentration of students. Given the high levels of student concentration it is debatable as to whether the introduction of further students would adversely impact on existing residential amenity. The proposal would have an adverse impact on the amenity of occupants in No. 10 and The Bungalow on John Street as the separation distances are considered unacceptable.
109. On balance, it is considered that the regeneration benefits including the positive impacts the proposal would have on the character, setting and appearance of the conservation area and listed building; as well as the highway safety improvements would outweigh the negative impacts the proposal would have on residential amenity. The proposed development is therefore recommended for approval.

RECOMMENDATION

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

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

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

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

Plan Ref No.	Description	Date Received
(9-)01	Location Plan	04/08/2016
1099(9-)29	Block Plan and Roof Plan	04/08/2016
1099(2-)02PK	Ground Floor GA	08/11/2016
1099(2-)03PK	First Floor GA	08/11/2016
1099(2-)04PK	Second Floor GA	08/11/2016
1099(9-)02PH	Elevations	04/08/2016
1099(9-)25PA	Full elevations	04/08/2016
1099(2-)01PK	Lower Ground Floor GA & Site	08/11/2016
1099(9-)08PC	Scheme Sections 1 & 2	04/08/2016
1099(9-)03PA	Rendered Elevations	04/08/2016
SK004	Vehicle Swept Paths	08/11/2016
	Phase 2: Ground Investigation Report	04/08/2016
	Noise Survey and Façade Acoustic	04/08/2016
	Design Strategy	
	Student Management Plan	04/08/2016
	Design and Energy Statement	04/08/2016

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

3. No development shall take place until a paving scheme for the footways linking Holly Street with John Street and Hawthorn Terrace and John Street has been submitted to and approved in writing by the local planning authority. The building must not be occupied until the completion of approved scheme.

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

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

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

5. No development shall commence until details of boundary treatment have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

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

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

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

7. Notwithstanding the details submitted with the application:

(a) If during the development works any contamination is identified that has not been considered it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, 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.

(b) If soil is to be imported to site for landscaping for example, a Phase 4 Verification Report (Validation Report) 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.

8. No development hereby approved shall take place unless in accordance with the drainage scheme detailed within the Flood Risk & Drainage Impact Assessment by Portland Consulting Engineers Ltd dated July 2016.

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

9. No development hereby approved shall take place unless in accordance with the mitigation and recommendations detailed within the Ecology Walkover Survey by Todd Milburn Partnership Ltd dated July 2016.

Reason: To conserve protected species and their habitat in accordance with criteria within the NPPF and policy E16 of the City of Durham Local Plan.

10. No development works (including demolition) shall be undertaken outside the hours of 8am and 6pm Monday to Friday and 8am and 1pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to policy H13 of the City of Durham Local Plan.

11. Prior to the commencement of development hereby approved a detailed landscaping scheme shall 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 amenity of the area and to comply with policies Q5 and H13 of the City of Durham Local Plan.

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

Reason: In the interests of the appearance of the area and to comply with policy H13 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision 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 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

Construction of 60 bedroom student accommodation at land at Holly Street, Durham, DH1 4DE. Ref: DM/16/02537/FPA

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Date
13th December 2016

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