

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/18/03115/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	4 No. two bedroom flats (consisting of conversion of existing dwelling at No. 36 into 2 dwellings and approved dwelling in garden altered to form 2 flats)
<b>NAME OF APPLICANT:</b>	Trustees of Mrs Doreen Hodgsons Estate
<b>ADDRESS:</b>	36 The Hallgarth Durham DH1 3BJ
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	Jennifer Jennings Planning Officer Telephone: 03000 261057 <a href="mailto:jennifer.jennings@durham.gov.uk">jennifer.jennings@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is located to the east of Durham City Centre within a modern residential estate built in the 1970s. It is located within Durham (City Centre) Conservation Area, in close proximity to a number of listed buildings, and approximately 450 metres to the east of Durham Cathedral and Castle World Heritage Site (WHS).
2. The site relates to property and garden land at no. 36 The Hallgarth, a three-bed dwelling house, which is presently an end terrace of four properties that extend to the east of the site. The garden land to the west of the house was granted planning permission in April 2018 for the erection of a matching three-bed dwelling on the gable end of no. 36 set back from the building line. This permission has not been implemented at the time of writing.
3. The garden land is uniform in level, laid to grass with paving adjacent to the existing house. A 1.8 metres high timber fence bounds the garden area along with a mix of mature hedging, shrubs and conifer trees. To the south of the site lies the gable end of a row of former council owned garages. To the north is residential property 'Hallgarth Farm House', which although not listed, would have non-designated heritage status and appears on 1860 OS maps. To the west lies the rear gardens associated with the line of terraced properties along Hallgarth Street, all of which are Grade 2 listed. It should be noted that a significant and sudden drop in levels of some 2-2.5 metres exists just west of the site boundary, with the ground level along the frontage of Hallgarth Street 5 metres lower than The Hallgarth estate.

## Proposal

4. The proposal seeks full planning permission for the conversion of the existing three-bed dwelling and construction of a similar building to the recently approved three-bed dwelling to provide two flats in each, with each flat accommodating two bedrooms. The proposals would involve the construction of a new two storey building on the existing garden land to form an end terrace to the line of properties along The Hallgarth. The design and materials would continue to match the adjacent properties. The rear garden area would be subdivided between the new property and no. 36 with ground floor flats in each building having access and bin storage therein. The upper floor flats would not have garden access, but their bins would be located to the front of the properties in a purpose built timber store. No car parking is proposed.
5. The application is referred to Committee at the request of the local member Councillor David Freeman as local residents are concerned about the loss of family homes, the amenity of local residents being further damaged by the proposed amendments as well as concerns that the application is trying to get around the Council's policy on HMOs.

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## **PLANNING HISTORY**

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6. Planning permission was granted in April 2018 for the erection of a new three-bed house in the garden of no. 36 The Hallgarth.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
9. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
10. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

11. NPPF Part 15 Conserving and Enhancing the Natural Environment - 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.
12. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

13. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

#### **LOCAL PLAN POLICY:**

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

14. *Policy E3 World Heritage Site – Protection* – Durham Cathedral and Castle WHS and its setting will be protected by restricting development to safeguard local and long distance views to and from the cathedral and castle and peninsula and seeking the conservation and management of buildings which make up the WHS and its setting.
15. *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.
16. *Policy E14 - Trees and Hedgerows* - sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
17. *Policy E21 – Conservation and Enhancement of the Historic Environment* – states that the historic environment will be preserved and enhanced by minimising adverse impacts by development proposals.

18. 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.
19. *Policy E23 – Listed Buildings* – The Council will seek to safeguard listed buildings by not permitting development which detracts from their setting.
20. *Policy H2 – New Housing in Durham City* – comprising windfall development of previously developed land and conversions will be permitted within the settlement boundary so long as it accords with other relevant policies within the plan.
21. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.
22. *Policy H13 – Residential Areas – Impact upon Character and Amenity* – protects residential areas from development that would have a significant adverse effect on their character or appearance, or the amenities of residents within them.
23. *Policy T1 – Traffic Generation – General* – states that development proposals which would result in a level of traffic generation detrimental to highway safety should not be granted planning permission.
24. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
25. *Policy T10 – Parking* – States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
26. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
27. *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.
28. *Policy Q5 – Landscaping – General* – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
29. *Policy Q8 – Layout and Design Residential Development* - sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
30. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal.

31. *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.

## **RELEVANT EMERGING POLICY:**

32. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

### Five Year Housing Land Supply

33. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.

34. In September 2017, the Government published a consultation document entitled "*Planning for the Right Homes in the Right Places*", which introduced a standard methodology for calculating housing need (OAN). Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).

35. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, the revised draft NPPF was issued for consultation, with paragraph 61 of that document advising that, 'in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance'.

36. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.

37. The Council's position on 5-year housing land supply was publically tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its OAN. On the 13<sup>th</sup> June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

38. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

39. Northumbrian Water offer no comments in relation to the application.
40. Highways Authority commented that a transport statement outlining the accessible location of the development and approach to parking supply had been provided. The development sits within the City's controlled parking zone, and highways are satisfied that car ownership and parking demand will be limited as no residents parking permits would be issued to property occupiers. No objection to this proposal is offered on highways grounds.

### **INTERNAL CONSULTEE RESPONSES:**

41. Design and Conservation – comment that they have no objection to this proposal from a design and conservation perspective as there would be no external changes involved to the scheme granted approval pursuant of application DM/18/00328/FPA. As such again the design would be considered to relate acceptably in the context of its modern surroundings. With regards to views towards Durham Cathedral and Castle World Heritage Site, the surrounding Durham (City Centre) Conservation Area and the setting of nearby listed buildings the impact would again be a neutral, conserving one.
42. Environment, Health and Consumer Protection (Nuisance Action Team) provided comments stating in relation to the flats, due to the increase in households there is a greater likelihood of noise, both between flats and adjoining properties. However it is considered that assuming the scheme of insulation measures stated are installed, that the potential for noise impact is suitably managed. Based on the information submitted with the application, the development is unlikely to cause a statutory nuisance
43. Environment, Health and Consumer Protection (Contaminated Land section) – comment that they have no adverse comments to make and that no contaminated land condition would be required.
44. Ecology section have no adverse comments to make but require an informative to be applied to any permission granted.
45. Arboricultural – No additional comments from the previous approved application. These comments were that trees to be removed to make way for the development do not warrant individual tree preservation orders and their removal would not have a negative effect at street level. Mature trees located within Hallgarth Farm House to the north would have tree roots located within the rear garden of No. 36, therefore any development must take these into consideration with a detailed Tree Protection Plan and Method Statement which must comply with BS 5837 2012.

## PUBLIC RESPONSES:

46. The application has been advertised by means of site notice on site, press notice and by notifying neighbouring residents by letter. Ten objections have been received raising the following points:

- The proposals would negatively impact on levels of traffic and parking in the cul de sac.
- The application is intended to circumvent the article 4 directive and the Interim policy on student accommodation with the aim to house students.
- The proposals would see the loss of 2 family homes, which if occupied as a family home would redress the imbalance in the area where high student numbers exist.
- The potential for the use of the properties as student housing would lead to an increase in anti social behaviour.
- The proposal should be considered under Part B of the Interim policy in relation to purpose built student accommodation (PBSA). Under this part there is a requirement to prove a need for additional student accommodation and to prove that it would not result in negative impact on retail, employment, leisure tourism or housing use in the area.
- The proposal can be considered to potentially be HMO if double beds are put into each bedroom with a maximum of 16 possibly living in the flats.
- The application raises the same issues and objections as the previous application and demonstrates how easy it is to get around restrictions on HMO growth in the city.
- The use of the properties for students will mean no council tax paid, but an increased demand on public services
- Application poses a worrying precedent for every other family home in the area, where in order to avoid refusals under the interim policy homes will potentially be converted to flats, thus further intensifying student ghettos in the city.
- The concerns raised during previous application with regards overcrowded site, no vehicle access, exacerbating existing parking problems, overloading drainage systems, problems with noise and anti-social behaviour from existing students, will be multiplied as a result of the current submission.
- It is not for planning to concern itself with issues of buying and selling on the housing market and to be involved in rectifying problems encountered by private individuals.
- The property has only been marketed for six months which is not a sufficient period of time to properly test interest. The short time scale from grant of permission to resubmission proves it was always the intention to let to students and circumvent the article 4.
- The applicant states that the area is already blighted by students lets in the area and the sale of the current property has been affected by this. This is not true as no. 36 is currently surrounded by non-student lets, although there are still numerous student houses in the area. But this is no reason to justify further student lets.
- The internal layout of the flats is clearly intended for students as it would not attract professional individuals.
- The more student lets in the area the greater the adverse effects on non-student residents.
- Concerns that if converted to flats, only one non-student resident living within the terrace of houses. Residents suffer effects of late night noise, litter throwing, cars parked inconsiderately, harassment. Concerns that area blighted with To Let boards and this change of use would further intensify the problem.
- The new development at Whinney Hill would provide 30 flats, so there is not a need for 4 flats in this location.
- Ward Councillor provided comments raising similar points to residents.

## APPLICANT'S STATEMENT:

47. Planning permission was granted to build a new house in the garden of no. 36 The Hallgarth in April 2018. Having marketed the property with the benefit of planning permission unsuccessfully it was decided on the advice of local estate agents to submit a new planning application for a development of 4 nos two bedroom flats each designed specifically for use by no more than two people.
48. A Pre application enquiry was therefor made prior to submission of the current planning application to develop the site with flats instead of houses. In her response to this enquiry the Planning Officer considered that the proposal submitted could be supported in principal as the previous planning permission granted to build a new house in the garden had already established that the new scheme for 4 flats was acceptable in terms of Scale, Design, Highway Safety, Sustainability, Residential Amenity and Overlooking. The Highways Engineer has raised no objections to the proposals and has not asked for any additional parking to be provided related to the flats as he considers the site to be in a sustainable location. This is backed up by the transport statement included with this submission.
49. The conservation officer has also raised no objections to the design for these flats as the planning permission granted for the new house for an identical external design is considered to be acceptable.
50. In order to preserve the existing stock of family housing, the Council have adopted a planning policy which prevents existing houses in city centre locations from being converted into H.M.O.'s.
51. This policy however is not applicable to the proposed flats in this application as each flat will provide accomodation for a maximum of two people whilst the policy applies only to dwellings occupied by 3 or more people. It is considered that a development of 4 small flats in this city centre location will be beneficial to increasing the small stock of two person flats currently available and provide new accomodation more suitable to a wider spectrum of occupant in an area predominated by large H.M.O. student houses. Charles Church are presently building 38 new family houses on the old Whinney Hill School site 250m from 36 The Hallgarth which should very much improve the stock of family houses in the area.
52. Whilst these flats could be let out to students it is more likely that small two bedroom flats such as these will be preferred by young professional couples, mature post graduate students, sabbatical year visiting lecturers or even a retired couple looking for a smaller more private residence rather than by students who are more likely to reside in larger H.M.O.'s shared by up to 6 or more people.
53. These 2 person flats will not generate the noise and nuisance problems that can be experienced by neighbours of larger H.M.O.'s occupied for example by first year fresher students in the adjacent houses at nos 33 and 34 The Hallgarth.
54. The fact that Durham County Council may already have a surplus supply of housing land should not prevent planning permission being granted for this proposal provided that it satisfies the required planning conditions and there is a proven market for housing in the form of two bed flats as has been identified by local estate agents in this particular location.



55. Planning permission has previously been granted for a new house in the garden at 36 The Hallgarth earlier this year so a housing use on this site has already been established. Para 11 of the NPPF referred to by the planning officer should not therefor be relevant in this instance.
56. Existing housing sites identified in the surplus supply land survey referred in the Councils recent survey may not all be attractive to develop with family houses and when new sites such as this one become available which are more attractive to developers who want to build flats rather than houses then planning permission should not be denied.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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

### Principle of Development

#### *The Development Plan*

58. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the CDLP was adopted in 2004 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.
59. On this basis given the age of the CDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need and must now be considered out-of-date. As such the weight to be afforded to these policies is reduced as a result and paragraph 11 of the NPPF is also engaged. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor is it prescribed how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.

60. Policy H2 of the local plan supports the provision of new housing in Durham City providing it accords with other policies, including policies relating to the conservation area, open spaces and the World Heritage Site (WHS) and providing the development is on previously developed land. In this case the development is partly on previously developed land - as it would occupy part of the site on which an existing dwelling is located – but also relates to an area of garden, classed as greenfield land. In this regard the development would not be in compliance with Policy H2, however, this aspect of the policy does not accord with the NPPF which places less emphasis on developing brownfield sites and does not preclude development on greenfield sites. Accordingly, less weight must be afforded to this policy due to the inconsistency with the NPPF.
61. With Policy H2 being a settlement boundary policy, informed by what is now an out of date evidence base, the policy is therefore considered to be an out of date policy for the purposes of engagement of paragraph 11 of the NPPF. Accordingly, only limited weight should be afforded to this policy.
62. Consequently, the application must be determined in accordance with Paragraph 11 of the NPPF.
63. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with an up to date development plan without delay; or
  - where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i) the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development or
    - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

#### *Five year Housing Land Supply*

64. Paragraph 67 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.
65. In September 2017, the Government published a consultation document entitled *“Planning for the Right Homes in the Right Places”*, which introduced a standard methodology for calculating housing need (OAN) which is now also reflected in paragraph 60 of the NPPF. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).
66. The Council’s position on 5-year housing land supply was publicly tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its OAN. On the 13<sup>th</sup> June, the ‘Preferred Options’ of the County Durham Plan (CDP) was presented to the Council’s Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

67. Accordingly, the benefit of boosting housing land supply will need to be factored into the planning balance, whilst recognising that the benefits of delivering new housing would be less than if a shortfall in supply existed.

### *Locational Sustainability of the Site*

68. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.

69. In this respect the application site is situated within Durham City and is well related to a wide variety of shops, services, education and employment opportunities and as such, the provision of 4 dwellings within this well-established residential area, close to existing facilities could be supported in principle subject to assessment against other local plan policies and material planning considerations.

70. In terms of the accommodation offer, the proposals are seeking to replace two three-bed family homes (one existing and one proposed) with four two-bed flats. With the change in the internal layout of the dwellings the accommodation would be less attractive for family occupation and may likely attract students, given the size of the properties, the internal arrangements which indicate bedrooms containing single beds with desk space, and given the location of the properties close to the university. Having previously advised the agent that there would be no support under the Interim Policy on Student Accommodation for the change of use of the existing and approved C3 dwelling houses to HMO status, the current proposals for the creation of two bed flats appear to have been submitted on the basis that the application does not fall to be considered under the Interim Policy.

71. It is noted as part of the comments and objections received that because the proposals appear designed for student accommodation, they should be assessed against the criteria for Purpose Built Student Accommodation (PBSA) within the Interim Policy. It is acknowledged that the definition of PBSA could be considered to correspond with the current submission. However, in consultation with Spatial Policy in this regard, it would not be appropriate to apply the requirements of the PBSA section of the Interim Policy to such a small scheme, as to do so would be disproportionate. In any case, it would be feasible for the flats to be bought by or let to professionals or small families, meaning that the development could not be narrowly defined by PBSA in this circumstance.

72. Local plan policy H9 (multiple occupation and student households) relates to the conversion of houses to flats and seeks to ensure development is in scale and character with the area, protects residential amenity and provides adequate parking as well as ensure that developments do not result in concentrations of subdivided houses that would be detrimental to the range and stock of housing. Consideration of the impact on the area, neighbours and parking are detailed in relevant sections below. In terms of issues relating to subdivision concentrations, the policy relates to conversions only and can therefore only apply to no. 36 and not the new build. In this case it would be difficult to demonstrate that the proposed conversion of this single C3 dwelling to two C3 dwellings would result in a detrimental concentration of sub divided dwellings, particularly as it relates to conversion of one single house with the use class remaining as a C3 class.

73. There is an understandable frustration that the proposals would see the loss of traditional sized family homes that had the potential to maintain a non-student residential balance within the community. The most up to date figure relating to student numbers within 100 metres of the site indicate that 36.5 per cent of properties are occupied by students based on council tax exemption figures. The addition of four two-bed flats would exacerbate this figure if let out to students, but there remains a potential for the properties to be occupied by professionals or small families. Regrettable as it may be, there are no up-to-date planning policies that can provide direction in terms of appropriate size, type and tenure of housing needed within the community which would justify refusal of the creation of four two-bed flats over retention of the two three-bed houses. On this basis the planning balance under Paragraph 11 of the NPPF comes into play where it must be determined whether adverse impacts outweigh the benefits when assessed against policies in the NPPF. Paragraph 68 of the NPPF in this regard states that planning decisions should support the development of windfall sites giving great weight to the benefits of using suitable sites within existing settlements for homes. The proposals are considered to be suitably located within an established settlement, and this fact weighs heavily in its favour.

74. Nonetheless further consideration of other impacts is required as part of the planning balance.

#### Impact on heritage assets and the character of the surrounding Conservation Area

75. Local authorities have a duty to preserve or enhance the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Local authorities also have a duty under Section 66 of the same legislation to pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

76. Policies E22 and E23 of the Local Plan reflect these legislative requirements and are also deemed to be consistent with the NPPF. Within the policies there is a requirement that development be refused where it would detract from the character of the area or the setting of a listed building and that all development should be sensitive in terms of siting, scale, design and materials, reflecting where appropriate existing architectural details. In addition the policy requires that trees, hedgerows, views and undeveloped areas which contribute to the character or appearance of the area should be protected.

77. The proposals are to a large extent a resubmission of a previously approved scheme, whereby the external design, scale and appearance of the new build would be very similar to the approved scheme, with the intensification of use being the main amendment. The acceptability of the previous scheme was fully assessed in terms of its impact on the conservation area, nearby listed buildings and views across to the World Heritage Site (WHS) and it was determined that the proposals would not lead to substantial harm and would be less than substantially harmful to the various heritage assets. As a result, the restrictive policies in paragraphs 133 and 134 of the previous NPPF 2012 (now contained within paragraphs 195 and 196 of the revised NPPF 2018) did not apply as the proposals were considered to have a neutral impact. The current scheme is largely identical in appearance to that previously approved.

The main external amendments relate to the dwelling being set back a further 0.3 metres, the new side extension being 0.2 metres wider and 1 metre longer and the rear extension to no. 36 increasing in width by 0.4 metres. Two front doors are also proposed to each property to provide separate access to each flat. These amendments are considered to be minor and would not impact on the surrounding heritage assets. In relation to the new proposals, Design and Conservation commented that the design would relate acceptably in the context of its modern surroundings. With regards to views towards Durham Cathedral and Castle World Heritage Site, the surrounding Durham (City Centre) Conservation Area and the setting of nearby listed buildings they state that the impact would again be a neutral, conserving one.

78. In respect of the above and in the context of the statutory duties and relevant policies E22 and E23 as well as policy H9, the proposed previously approved dwelling, now to be developed as two flats, has been designed to reflect the scale and design of the adjacent properties along the terrace. Being set back by some 1.8 metres (previously 1.5 metres), it would not follow the existing building line, which would create an unbalanced block in relation to others in the estate. However this layout is preferred in order to preserve the existing view towards the WHS, reducing the intrusiveness of the new build from the street scene. In this regard, the proposals are seen to reflect the requirements set out in policy E22 (1) whereby the proposals are sensitive to the appearance of the area. In addition, given the location of the application site, not readily visible from main public areas, it is not considered that the development of this land would detract from the character of the conservation area. It is accepted that the garden area provides an attractive break from the built form and its loss is regrettable, but it does not contribute to the public green spaces within the immediate or wider area or to the significance of the conservation area as a whole. Trees section have also assessed the details of the new application and raise no new issues in relation to the proposals. They do not consider that any of the planting within the site merits the application of a tree protection order.

79. Reverting back to paragraph 11d(i) of the NPPF, which states that permission should be granted unless the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development, it is considered that this restrictive policy would not apply in this case. In addition the impact of the proposals are not considered to be significantly adverse on the amenities of the area.

#### Impact on residential amenity

80. Local plan policy Q8 requires that new residential development should provide adequate amenity and privacy for each dwelling and minimise the impact of the proposal upon the occupants of existing nearby and adjacent properties. To meet with these requirements, guidelines are set for privacy distances, requiring a distance of 21 metres between habitable room windows and 13 metres between blank gables and habitable windows.

81. The proposed dwelling would be set back from the front line of the adjacent property by 1.8 metres, meaning it would jut out at the rear by the same amount. In this location the distance from the rear elevation to the facing elevation of Hallgarth Farm House measures 13.7 metres. On the upper floor, the proposed rear elevation would have a single window serving the bathroom and any approval would condition that this window is obscure glazed in perpetuity to protect mutual amenities. The windows to the Farm House on this elevation closest to the proposed dwelling do not serve habitable rooms.

In this respect it would be difficult to refuse the current submission based on privacy distances which are considered met. In any case, the upper floor rear windows of no. 36 are large bedroom windows and already breach distancing standards being no more than 15.5 metres away from the facing windows of Hallgarth Farm House. This arrangement does not meet current standards, but as it is an existing relationship between buildings that cannot be altered, it is considered acceptable in this case.

82. In terms of outlook, the proposed dwelling would have negative impacts by removing the last remaining area of openness along the south elevation of Hallgarth Farm House, however, the level of intervening planting on the Farm House side, would help to reduce these impacts to a degree. In addition good levels of outlook still exist along the west and north elevations of this property where the majority of habitable room windows exist. Overall adequate levels of amenity and privacy would be retained for this adjacent dwelling and the proposals are not considered to contravene the aims of policy Q8 in this regard.
83. The addition of a new building to the west of no. 36, set beyond the rear building line by 1.8 metres, would not be considered overly excessive in terms of impacts on no. 34 (attached to the east of no. 36 The Hallgarth) given the distance of some 6 metres from this property. In addition it is noted that no. 36 presently has a single storey rear extension running along the shared boundary to no. 34 which would have an existing impact on this resident. The current proposal showed that this rear extension was to be widened as well as heightened and lengthened along the boundary wall with no. 34. The agent was requested to amend the plans to bring the height back to existing 3 metres height and reduce the length to protect visual amenities of no. 34. The agent submitted amended plans indicating these changes as requested. The proposals are not considered to be obtrusive to no. 34 given the above factors.
84. Properties along Hallgarth Street would have views of the proposed new build, with nos. 28 and 29 most directly affected. No. 29 has a rear extension with fenestration on the rear elevation looking towards the application site. The distance from this part of the building to the proposed new dwelling measures approximately 20.5 metres, which although falling short of the 21 metre standard, is not considered a significant breach that would detrimentally impact on the amenities of these neighbours to a significant degree. With the extent of level differences between the application site and the ground level by the properties on Hallgarth Street, the eaves of these properties are equivalent in height to a single storey height when viewed from The Hallgarth. As a result it is considered that the level of impact is not as severe as might be expected if these properties and the proposed dwelling were on the same ground level. Additionally the orientation of the proposed dwelling is slightly offset from this property, helping to further reduce impacts on amenities. The increase in the width and length of the single storey side extension is not considered significant as to detrimentally impact on neighbouring amenity of residents along Hallgarth Street, particularly as the majority of the build would be behind the boundary fence, with only the hipped roof area visible.
85. The amendments to the proposals continue to allow the new build to be accommodated here without breaching to any significant level the distancing standards within the local plan.
86. In terms of living and outdoor amenity space available for the proposed flats, as a guide, the HMO licencing regime introduced in October 2018 has been considered and it is noted that all the bedrooms within the flats provide appropriate space standards for single person bedrooms, with three of the eight bedrooms potentially able to accommodate two people.

While these standards are not directly applicable to the current proposals, they nevertheless provide an indication of the general acceptability of the room sizes proposed. Access to outdoor garden space would only be available to the two downstairs flats and is considered acceptable. The first floor flats would not benefit from this amenity but this is not an unusual arrangement for flats in any case. Bin stores have been provided for each flat and these are considered appropriate both in terms of size and location.

87. In consideration of the proposed intensification of residential use, based on the floor plans, the four flats appear to be designed to accommodate two individuals each or eight people in total, which would not be significantly different to what might have existed if the two family homes were retained and occupied. As commented above, if three of the bedrooms were used for two individuals, so long as the individuals were related or couples there would be no breach of planning under the Article 4 direction. Such an arrangement might be expected in the case of a small family. In any case there is potential for the occupiers of the four flats to generate more activity than occupiers of two larger family homes. Notwithstanding this, the increase in number of dwellings is not considered so large as to overwhelm the area. Whilst objections raised concerns regarding the ability of rooms to accommodate two beds, allowing potentially up to four people per flat, such occupation levels would bring the accommodation into the realms of HMO status requiring the submission of a planning application for a change of use to C4 given the Article 4 direction in force in the area.
88. The concerns raised by some objectors in terms of anti-social behaviour within the area due to the high density of students are noted but are not sufficient to warrant refusal. Whilst some levels of increased noise would be expected from dwellings housing large numbers of residents, the proposed flats would limit the number of residents within and with limited congregation areas within the flats in terms of kitchen/dining/lounge space, it is anticipated that there may be less opportunity for activities of disturbance than would exist in larger HMO properties of 3+ people.
89. Environmental Health were consulted for their views in terms of noise impacts and raised no objections based on the scheme of sound insulation proposed.
90. In consideration of the above, whilst two additional dwellings over and above the existing and approved dwellings would intensify the residential use on site, it is deemed that this is not excessive and given the location and internal room arrangements would not detrimentally impact on the amenity and privacy of surrounding neighbours. The proposals are considered to accord with policy Q8 and H9, where applicable, in this regard.

#### Highway Safety and Access

91. Saved local plan policy T1 requires that the council should not grant planning permission for development that would generate traffic which would be detrimental to highway safety and have a significant effect on occupiers of neighbouring properties. Policy T10 requires vehicle parking off the public highway in new development to be limited in amount so as to promote sustainable transport choices.
92. By reason of the layout and location of the site, it would not be possible to include off road parking for the development. The Council's Highways team considered this fact and accepted that in curtilage parking could not be achieved, but further acknowledged that the city centre location of the application site would mean that no parking provision would be required from a highways standpoint. The applicant has been advised that no parking permits to park within the Durham City controlled Parking Zone would be given for the new properties should approval be granted.

93. The lack of parking provision, whilst not ideal, is not considered a sufficient ground for refusal of planning permission, and in many respects, such a circumstance would be more likely to deter car owners from inhabiting the properties as well as encourage sustainable transport choices in accordance with policy T10. It is recommended however that a condition be applied requiring details of bicycle stores for each flat.

#### Ecology

94. Policy E16 of the Local Plan states that development proposals should take account of any nature conservation interest within the site by providing appropriate surveys, avoid any unacceptable harm and provide mitigation measures where appropriate. This policy is considered to be compliant with Part 15 of the NPPF which seeks to ensure that developments protect and mitigate harm to biodiversity interests and can be afforded weight in the decision making process. In consultation with ecology section, no objections are raised to the proposals and there is no requirement for the submission of any survey works. A request has been put forward for the inclusion of a standard bat informative should permission be granted.

#### Other issues

95. Archaeology section have assessed the details of the application and given the location they have requested the implementation of a watching brief condition should planning permission be required.

96. Northumbrian Water were consulted regarding the proposals and made no comment regarding connection to the sewers. Concern has been raised regarding the impact of the proposals on existing drainage, which is considered to be at maximum capacity and also quite old. No specific details have been included with the application on how foul and surface water will be handled and it is therefore recommended that a condition is attached requiring full details of foul and surface water disposal to be submitted and agreed before development commences.

#### Planning Balance

97. The acceptability of the application should be considered under the planning balance test contained within Paragraph 11 of the NPPF, which states that permission should be granted unless, policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusal, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. There are no such policies within the NPPF that provide a clear reason for refusal for this application.

98. The benefits of the proposal would be the provision of additional homes within a central location of Durham City which would meet NPPF aspirations to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations. These dwellings would contribute economic benefits directly and indirectly to the locality through patronage of surrounding businesses and services.

99. Adverse impacts include the loss of an existing and an approved dwelling that potentially could have provided traditional sized family homes within an area of high student numbers. The loss of these dwellings to provide 4 flats means that they could potentially be let out as student accommodation which would add to the already high student numbers in the area to the detriment of maintaining a balanced community, as sought by the Interim Policy on Student Accommodation. However, as each of the properties falls below the criteria that would allow the proposals to be assessed against the Interim Policy, it is not possible to refuse the scheme on this basis. There would also be the loss of a current large garden area which would have some negative impacts on visual amenity, but permission has already been granted for a dwelling on this site. On the basis of this 'fallback' position, this would not outweigh the benefits of the scheme.



100. In consideration of the above, none of these adverse impacts are considered to significantly and demonstrably outweigh the benefits of creating new sustainably located dwellings within an established residential cul de sac location within the City of Durham.

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## **CONCLUSION**

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101. The Paragraph 11 of the NPPF presumption in favour of sustainable development requires granting planning permission unless the adverse impacts of a proposed development are shown to significantly and demonstrably outweigh any benefits, allowing the refusal of planning permission to be justified. In this instance, it is accepted that there would be some adverse impacts as a result of the development, however as identified in the planning assessment above, the negative impacts do not significantly and demonstrably outweigh the benefits associated with the provision of additional dwellings within a sustainable location.

102. The proposal has generated significant public interest, with a number of letters of objection having been received. The objections and concerns raised by local residents have been taken account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application in light of the benefits of the scheme and the ability to impose conditions.

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## **RECOMMENDATION**

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That the application be **APPROVED**, subject to the conditions detailed below:

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

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

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

Site location plan scale 1:1250 received 12/10/2018

Proposed site plan G/67/14 Rev D received 28/11/2018

Proposed floor plans G/67/12 Rev C received 28/11/2018

Proposed elevations G/67/14 Rev C received 28/11/2018

Proposed party wall and floor sound insulation details received 29/11/2018

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

3. Notwithstanding any details of materials submitted with the application, no development shall commence until details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details thereafter.

*Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area accordance with the provisions of policies E6, E21, E22 and Q8 of the Durham City Local Plan.*

4. No development shall commence until a scheme for the provision of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The drainage shall be completed in accordance with the approved details.

*Reason: To prevent pollution of the water environment in accordance with policy U8a of the Durham City Local Plan.*

5. No development shall commence until details to protect all trees and hedges around the boundary of the site in the form of a tree protection plan has been submitted to and approved in writing by the Local Planning Authority. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, have been protected in accordance with the approved plan. The tree protection shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

*Reason: In the interests of the visual amenity of the area having regards to Policies E14 of the City of Durham Local Plan and Parts 7 and 11 of the NPPF.*

6. Before the development hereby approved is commenced detailed drawings showing facilities for cycle parking along with a plan detailing their location on site shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented before any part of the development hereby approved is first used and thereafter shall be permanently retained for such purposes to the satisfaction of the Local Planning Authority.

*Reason: In the interests of highway safety and to comply with Policy T10 of the City of Durham Local Plan 2004.*

7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The Scheme shall provide for:
  - i; Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
  - ii; Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
  - iii; Post-fieldwork methodologies for assessment and analyses.
  - iv; Report content and arrangements for dissemination, and publication proposals.
  - v; Archive preparation and deposition with recognised repositories.
  - vi; A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
  - vii; Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
  - viii; A list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications.The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

*Reason: To comply with paragraph 135 and 141 of the NPPF because the site is of archaeological interest.*

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

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

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) the glass in the first floor bathroom window on the rear elevation and overlooking property Hallgarth Farm House shall be frosted/opaque and shall remain so for the lifetime of the development.

*Reason: In the interests of the privacy of the neighbouring occupier and to comply with Policy Q8 of the City of Durham District Local Plan*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

County Durham Strategic Housing Land Assessment

County Durham Strategic Housing Market Assessment

Statutory, internal and public consultation responses



<p><b>Planning Services</b></p>	<p>4 No. two bedroom flats (consisting of conversion of existing dwelling at No. 36 into 2 dwellings and approved dwelling in garden altered to form 2 flats)</p> <p>Application Number DM/18/03115/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p><b>Comments</b></p>	
	<p><b>Date</b> 11 Dec. 2018</p>	<p><b>Scale</b> NTS</p>