

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/03487/VOC
FULL APPLICATION DESCRIPTION:	Variation of condition 13 pursuant to planning permission DM/18/00310/VOC so as to extend the opening hours for the D2 cinema use so as to open 1 hour earlier (9am) and 1 hour later (1am) Sunday to Thursday, 1 hour earlier (9am) Friday and Saturday with opening permitted until 3am on up to 10 occasions per year
NAME OF APPLICANT:	Odeon Cinemas Ltd
ADDRESS:	The Riverwalk Millburngate Durham DH1 4SL
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Henry Jones, Principal Planning Officer, 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site

1. The site relates to The Riverwalk, formally the Gates and Millburngate Shopping Centres, which lies on the western bank of the River Wear to the easternmost end of North Road within Durham City Centre. The shopping centre is currently in the process of being reconstructed/remodelled with a redevelopment scheme which first gained planning permission under application DM/15/1626/FPA (in November 2015).
2. The application site lies within the Durham City Centre Conservation Area. The Castle and Cathedral World Heritage Site (WHS) is located 100m from the site at the nearest point. Situated within Durham City Centre the application site contains and is within very close proximity to a number of other designated and non-designated heritage assets. This includes within the application site the Grade II listed 129 Milburngate (also known as 5 Framwelgate Bridge) and 130-137 Milburngate (also known as 1-4 Framwelgate Bridge) which are Georgian period brick buildings of sufficient architectural and historical value to be considered non-designated heritage assets. Immediately abutting the site to the south-east is Framwelgate Bridge (Grade I listed and scheduled monument). Other particularly notable heritage assets in the vicinity of the site include the Grade II* listed Castle Chare community and arts centre building and Grade II listed St Godrics Church located on the opposite side of Milburngate. Concentrations of listed buildings are also located on Silver Street and within the Market Place.

3. The application site covers an area of approximately 1.3 hectares. The site contains no statutory or locally designated landscapes or ecological sites. Lambton Walk, a terrace of residentially occupied properties, is located outwith, but immediately adjacent to the application site and the River Wear.

Proposal

4. The application seeks the variation of condition 13 of planning permission DM/18/00310/VOC so as to extend the opening hours of the D2 cinema use within the development.
5. Condition 13 of planning permission DM/18/00310/VOC states:

"Occupation/operation of the A3, A4 and D2 uses hereby approved shall be in accordance with the opening hours details on covering letter 22458/JW/GB/12376379v1. Those opening hours being;

A3 and A4 uses - Open between 8am and 12 midnight Sunday to Thursday inclusive and between 8am to 1am on a Friday and Saturday inclusive (inclusive of public holidays)

D2 uses - Open between 10am to 12 midnight Sunday to Thursday inclusive and 10am to 2am on Friday and Saturday inclusive (inclusive of public holidays)

Reason: In the interests of defining the consent and residential amenity having regards to Policies U5 and U7 of the City of Durham Local Plan and Part 11 of the NPPF."

6. As submitted, the applicant sought to revise the opening hours of the D2 cinema use so that it would have the permitted opening hours of 9am – 3am every day.
7. However, following discussions with the applicant the variation of the condition requested has been amended with the following wording reflective of the current request in relation to the cinema;

"The D2 cinema use hereby approved shall only be open to customers in accordance with the hours and restrictions listed at i) and ii) below and at no other time;

- i) *Open between 9am to 1am Sunday to Thursday inclusive (including on public holidays) and 9am to 2am on Friday and Saturday inclusive (including on public holidays)*
- ii) *Exceptionally, and for no more than a maximum of 10 occasions in any calendar year, the D2 cinema use is permitted to be open between the hours of 9am and 3am on any day of the week.*

Reason: In the interests of defining the consent and residential amenity having regards to Policies H16, CC1, Q1, U5 and U7 of the City of Durham Local Plan and Parts 8, 12 and 15 of the NPPF."

8. The original planning permission for the Riverwalk redevelopment (DM/15/01626/FPA) to which this variation of condition application relates was considered Environmental Impact Assessment (EIA) development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (now 2017) and was accompanied by an Environmental Statement (ES) (May 2015) and a further Addendum ES (August 2015) as a result.

9. Subsequently, other planning applications seeking to vary conditions applicable to the redevelopment have been submitted. Under application DM/16/01567/VOC, which granted planning permission for extended construction working hours, the ES required update and was accompanied by an Addendum ES (May 2016) which included chapters in relation to Townscape and Visual Impact Assessment, Heritage, Noise and Bats.
10. Further applications varying conditions under first DM/16/02599/VOC, relating to design and layout amends, and then DM/18/00310/VOC, providing a further period of extended construction working hours did not require any further update of the previously submitted ES and addendums.
11. In respects to this pending application it is again considered unnecessary for any update to the previously submitted ES and addendums having regards to the nature of the amendments sought under the application. Nevertheless, this report has taken into account the information contained in all previous ES submissions and matters arising from statutory consultations and other responses.
12. The application is being presented to County Planning Committee at the request of the City of Durham Parish Council.

PLANNING HISTORY

13. The following planning history is of most relevance to the proposals:
14. DM/15/01626/FPA - Redevelopment of The Gates shopping centre consisting of part retention of existing and part demolition and rebuild for a mix of retail, financial service, restaurant, bar and multiplex cinema uses (Use Classes A1, A2, A3, A4 and D2) and student residential units (total 253 beds) and associated works and landscaping - Approved subject to S106 19th November 2015.
15. DM/16/01567/VOC - Variation of Condition 22 of planning permission DM/15/01626/FPA to extend the permitted construction/demolition working hours so as to allow night time working - Approved subject to S106 14th September 2016.
16. DM/16/02599/VOC - Variation of condition 2 pursuant to DM/16/01567/VOC to permit minor material design changes including elevational, roofscape and landscaping alterations, external lift relocation, kiosk unit redesign, part conversion of toilet block and associated works - Approved 5th May 2017.
17. DM/18/00310/VOC - Variation of conditions 3 and 4 pursuant to planning permission DM/16/02599/VOC so as to permit night time construction works to continue until 1 August 2018 – Approved 30th April 2018.

PLANNING POLICY

NATIONAL POLICY

18. A revised National Planning Policy Framework (NPPF) was published in February 2019. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.

19. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
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21. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
22. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
23. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
24. *NPPF Part 7 - Ensuring the Vitality of Town Centres*. Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
25. *NPPF Part 8 Promoting Healthy and Safe 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.
26. *NPPF Part 9 – 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.
27. *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.

28. *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.
29. *NPPF Part 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
30. *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.
31. *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>

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

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

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

33. *Policy E3 – World Heritage Site – Protection* seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.

34. *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.
35. *Policy E14 – Existing 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.
36. *Policy E15 – New Trees and Hedgerows.* States that the Council will encourage tree and hedgerow planting in major development sites.
37. *Policy E16 – Nature Conservation – The Natural Environment.* This policy 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.
38. *Policy E21 – The Historic Environment.* This requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
39. *Policy E22 – Conservation Areas.* This policy seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
40. *Policy E23 – Listed Buildings.* This policy seeks to safeguard Listed Buildings and their settings from unsympathetic development.
41. *Policy E24 – Ancient Monuments and Archaeological Remains.* This policy sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
42. *Policy H16 - Residential Institutions and Student Halls of Residence.* This policy provides for purpose-built accommodation provided that they are well related to local facilities and are not likely to impact adversely on adjacent development or lead to community imbalance.
43. *Policy T1 – Transport – General.* This policy 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.

44. *Policy T20 – Cycle Facilities.* Seeks to encourage appropriately located, secure parking provision for cyclists.
45. *Policy T21 – Walkers Needs.* 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.
46. *Policy S1a – Retail Hierarchy.* Seeks to protect and promote the vitality and viability of Durham City Centre
47. *Policy S1 – City Centre Shopping Area.* This policy seeks to sustain and enhance retail provision in Durham City Centre through redevelopment and changes of use provided that proposals meet the required standards of design, are accessible to all users and have satisfactory servicing arrangements. The importance of food retailing as an integral element of the City Centre’s vitality and viability is highlighted.
48. *Policy S2A – A2 and A3 Uses in the Primary Retail Area.* Seeks to limit the proportion of non-A1 Retail Uses to safeguard the retail character of the shopping street.
49. *Policy R11 – Public Rights of Way and Other Paths.* This policy states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.
50. *Policy CC1 – Vitality and Viability.* Seeks to protect and enhance the vitality and viability of the City Centre (reference is made to mixed uses, active street frontages, use of upper floors, residential occupation, environmental improvement and a safe, accessible and friendly public realm).
51. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility.* This policy states that the layout and design of all new development should take into account the requirements of all users.
52. *Policy Q4 - Pedestrian Areas.* Requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.
53. *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.
54. *Policy Q15 – Art in Design.* This policy states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area.
55. *Policy U5 – Pollution Prevention – General.* Planning permission for development that may generate pollution will not be granted if it results in; an unacceptable adverse impact upon the quality of the local environment; the amenity of nearby and adjoining

land and property or; will unnecessarily constrain the development of neighbouring land.

56. *Policy U7 – Pollution Prevention – Development Sensitive to Pollution.* Developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.
57. *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.
58. *Policy U9 – Watercourses.* States that development which may affect watercourses will only be permitted provided that they do not result in flooding or increase flood risk elsewhere; or they do not result in the pollution of the watercourse; or they do not adversely affect nature conservation interests; or they do not adversely affect the visual appearance of the landscape; and their environmental impact is properly assessed.
59. *Policy U10 - Development in Flood Risk Areas.* States that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless it can be demonstrated that alternative less vulnerable areas are unavailable, that no unacceptable risk would result, that no unacceptable risk would result elsewhere, or that appropriate mitigation measures can be secured.
60. *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.
61. *Policy U13 - Development on Unstable Land.* This policy states that development 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.
62. *Policy U14 - Energy Conservation – General.* States that the energy efficient materials and construction techniques will be encouraged.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (City of Durham Local Plan)

RELEVANT EMERGING POLICY:

The County Durham Plan

63. Paragraph 48 of the NPPF states 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' stage CDP was subject to consultation in summer 2018. On the 16th January 2019, Cabinet approved the 'Pre Submission

Draft' CDP for consultation. However, the CDP is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

Durham City Neighbourhood Plan

64. The Durham City Neighbourhood Plan is at an early stage of preparation and has not yet reached a stage where weight can be afforded to it.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

65. *City of Durham Parish Council* – Object to the application on the grounds of potential impacts upon residential amenity which are considered contrary to the City of Durham Local Plan. It is stated that there are nearby residential properties in the form of Lambton Walk, the flats within the development itself and those proposed on the neighbouring Milburngate House site. There is real and present association between the places of assembly being open until the early hours and consequential disturbance for residents. The currently approved opening hours are adequate.

INTERNAL CONSULTEE RESPONSES:

66. *Environment, Health and Consumer Protection* – Raise no objections. Consideration of the likely impacts of the proposals upon amenity in accordance with the Councils relevant Technical Advice Notes (TANs) has been undertaken. It is stated that concerns were expressed in regard to the Applicant's initial request for opening until 3am every day. The amendments made to the application so that the request for 3am opening is limited to up to 10 occasions per year only significantly reduces the potential impact. Impacts of the amendments are considered such that it is unlikely to result in any change in behaviour or attitude. The acoustic character of the area, may alter but it is unlikely to be such that there is a perceived change in the quality of life. As such it is considered that the above variation is in accordance with the local authorities TANS.

EXTERNAL CONSULTEE RESPONSES:

67. *Durham Constabulary Police Architectural Liaison* – Raise objections. Concerns are expressed that one operator seeking such late opening hours will encourage other operators to seek the same. No persuasive argument has been submitted explaining why people should be visiting a cinema in the early hours. Reference is made to past issues in relation to late night opening takeaways on Claypath which generated adverse nuisance impacts.

PUBLIC RESPONSES:

68. The application has been advertised by means of press and site notices and individual notification letter. A total of 3 letters of representation have been received each raising objection. The comments are summarised below:
- Other licensed premises will seek to extend their opening hours;
 - The concerns of Durham Constabulary and potential for anti-social behaviour are cited;
 - Impacts upon residents from the exiting of the cinema late at night and cumulative impacts with other premises;

- If the late night opening is targeted students this represents a further example of the students being put before residents;
- Specific concerns are raised in regards to the location of 6 Lambton Walk, its location of doors and windows etc and the proximity of which those who have visited the cinema who will pass on route to taxis on North Road; and,
- Disturbance of sleep

69. *City of Durham Trust* – Raise objections. The existing approved opening hours are adequate. The extended opening hours proposed are unsuitable both in amenity terms, given the proximity of residential properties including Lambton Walk and the student accommodation but also in terms of the footfall of the City.

APPLICANTS STATEMENT:

70. The hours of operation agreed within the initial planning consent provided by the developer are not consistent with the commercial requirements of a modern cinema operation. This is particularly the case when considered alongside the specifications of the 'Luxe' brand being delivered by ODEON in Durham, which includes 100% recliner seating and a high quality food and beverage offer.
71. The sale of alcohol for consumption on the premises will only be permitted to cinema ticket holders.
72. The majority of UK cinemas regularly operate such that at least one of their main evening performances each day will conclude after midnight, but this can vary with the length of each film.
73. During key releases periods the film is occasionally made available in key locations for a midnight screening on the day of release, enabling film fans to see the film before anyone else. Given the nature of the Luxe operation proposed for Durham, it is important that ODEON are able to offer these film fanatics this opportunity otherwise they will seek these shows at other cinemas. These performances are relatively infrequent and are invariably on a mid week night.
74. There is typically a strong audience for 'late shows' of key releases during both mid-week and weekend periods in market places with strong student representation, with ODEON providing a safe and friendly late night leisure destination for the local community.
75. To facilitate the demands of our Guests ODEON may need to be able to operate until 3am on the occasions mentioned above to allow for the length of feature films which are sometimes 2.5 hrs long.
76. ODEON typically experience minimal disturbance during these occasions as the audiences for these screenings have often planned their visits some time in advance and attend with friendly and positive attitudes. ODEON do, however, deliver appropriate training to all colleagues, and employ a number of security measures, including a manned ticket control point, regular patrols, and a full in-screen CCTV system to ensure that every visitor has an enjoyable experience.
77. Sale of alcohol to cinema ticket holders only is a common operating procedure across the ODEON estate and hence this is part of the standard training delivered to our Teams.
78. ODEON are as keen as the local authorities to prevent any of the concerns raised in the planning application and look forward to working with the appropriate parties in

ensuring that the cinema delivers a positive contribution to Durham's leisure economy. The ability to remain flexible with opening will allow ODEON to maximise the opportunities presented by all film releases to ensure Durham is a commercial success.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PM8YQRGDHJG00>

PLANNING CONSIDERATIONS AND ASSESSMENT

79. Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the conditions subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
80. In considering such an application, the Development Plan and any other material considerations under section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
81. Application DM/18/00310/VOC (which this application seeks to vary) was in itself a S73 application and two further had preceded that one with the original redevelopment proposals being subject to application DM/15/01626/FPA, approved in November 2015.
82. This pending application seeks to extend the opening hours of the D2 cinema use within the development which are controlled by condition 13 of planning permission DM/18/00310/VOC. As a result, the key planning consideration in this instance relates to matters surrounding residential amenity and this is discussed below. The status and implications of a further planning application on other conditions and planning obligations are also discussed below.

Residential Amenity

83. The Riverwalk is a mixed-use redevelopment of which the cinema forms a part of. The cinema is located towards the northern end of the overall development. The entrance is via a pedestrian thoroughfare through the development on a north/south axis adjacent to the River Wear. Student accommodation partly wraps around the cinema itself. Outside, but immediately adjacent to the redevelopment site, are 6 apartments at Lambton Walk. Lambton Walk is located approximately 85m from the entrance to the cinema unit. Other residentially occupied properties within close proximity of the cinema and development as a whole, include St Annes and St Godrics Courts, off Milburngate, which are approximately 100m from the cinema entrance and properties at Highgate which commence approximately 130m from the cinema entrance. The former Milburngate House site to the north has an extant planning permission for a mixed use development including residential flats, the closest of which, would be located approximately 120m from the cinema entrance. Cinemas incorporate

particular sound insulation measures and in the development subject to this application, particular measures had to be incorporated due to the proximity of the cinema screens to the student accommodation within the development itself.

84. The key residential amenity matter is, therefore, considered to be the impact that the extended opening hours sought would have, having regards to any noise and disruption which may occur from the comings and goings of visitors to the cinema accounting for the way in which they disperse from the cinema with some additional consideration being given to the fact that the cinema is proposed to be licensed to supply alcohol.
85. As first submitted, the applicant sought to revise the opening hours of the cinema use so that it would have the permitted opening hours of 9am – 3am every day. This would have resulted in opening 1 hour earlier every day, 3 hours later Sunday to Thursday inclusive and 1 hour later Friday and Saturday inclusive.
86. Such revisions raised concerns with Officers, as they represented a significant extension to the currently approved opening hours, and would permit a premises in the City to be open every day until 3am.
87. It is understood from further discussions with the applicant that, whilst permission was being sought for such late opening every day, in reality, the extended hours were being sought essentially to cover two main occurrences.
88. The first being to cater for relatively frequent film showings which commence late evening midweek but finish after midnight. Research of other Odeon Luxe cinemas does highlight that relatively frequent midweek film showings commence at approximately 10.15pm which, due to their length, do not finish by 12 midnight – which is the current condition restriction.
89. The second occurrence is to cater for the less frequent key releases available at a midnight showing on the film release night. The request for the opening of the cinema until 3am is stated as being made to cater for these instances. The applicant has submitted that full use of the opening hours until 3am sought would, therefore, only occur in the minority of occasions.
90. However, in accepting the opening until 3am every day the Local Planning Authority (LPA) would not have control over the frequency at which the full extent of the opening hours would be utilised and, in theory, not accounting for how necessary or otherwise it would be, the premises could close every day at 3am.
91. Further discussions have, therefore, been held with the applicant with the view of a varied condition which would permit further flexibility, but maintain greater control for the LPA, so that the implications upon residential amenity remain acceptable.
92. Following these discussions, the applicant has amended the description of the development and the extent to which the opening hours are sought for amendment via the variation of the condition on the planning permission.
93. In its revised form the result of the variation to the opening hours condition would be that the cinema could open 1 hour earlier (9am) and 1 hour later (1am) Sunday to Thursday, 1 hour earlier (9am) Friday and Saturday with opening permitted until 3am on up to 10 occasions per year.
94. This revision would extend the midweek opening hours later than 12 midnight to cater for those film viewings which commence around 10.15pm. The 10 occasions per year

stipulation would cover those instances, if any, when a key midnight film release event may occur.

95. In addition to the above summarised concerns of the Parish Council and public responses, Durham Constabulary Police Architectural Liaison have raised objections. Albeit it should be noted that these objections relate to the proposal for 3am closure every day. No amended comments have been submitted in relation to the revised proposals. Key to their concerns are the potential for other operators to seek similarly late night opening and reference is made to past issues in relation to late night opening takeaways on Claypath with generated adverse nuisance impacts.
96. Officers consider that the proposed revisions to the opening hours are now acceptable. The extension to the opening hours would be more modest than that first proposed under this application. The particularly late 3am request would now be controlled with the worst case scenario permitted under the revised condition being that this could occur on up to 10 occasions per annum. The extension so as to permit an extra 1 hour per evening Sunday to Thursday inclusive would be the most frequently occurring impact. However, it is considered that for a City Centre leisure use it is not unacceptable. The request for an earlier opening of 9am as oppose to 10am everyday is considered acceptable, as 9am is not deemed an unsociable hour of the day. Environment, Health and Consumer Protection have not raised objections to the application in its amended form, and consider that the proposals would be unlikely to result in changes in behaviour or attitude or be likely to result in any change in quality of life.
97. Odeon are seeking a licence to supply alcohol on the premises and this has been applied for separately from Durham County Council as Licensing Authority. This application is still pending. The licencing application seeks the supply of alcohol until 12 midnight Sunday – Thursday inclusive and 1am on a Friday and Saturday. These hours do not extend beyond the current opening hours of the development as defined by the current condition on the planning permission, with no application to supply alcohol until as late as 3am. Officers consider that the sale of alcohol is likely to be a subservient part of the cinema use.
98. Further mitigating factors to consider, include that the site is served by a car park on levels beneath the cinema. Those visiting the cinema late at night who have driven, are likely to park in this car park. The northernmost car park spaces which are directly beneath the cinema can be accessed via lift and stairwells. Coupled with fewer public transport options at such late hours some reduction in footfall around the development and neighbouring city centre streets should occur in comparison for instance to cinema trips during the daytime. There will clearly remain, however, some passing footfall and this would include passing the properties on Lambton Walk on pedestrians routes in the development itself.
99. Overall, however, officers consider that the proposed adjustments to the opening hours are not so substantially different from those currently permitted so as to result in any unacceptable adverse impacts upon the residential amenity of occupiers of the development and neighbouring occupiers. As a result, the proposals are considered compliant with CDLP Policies H16, CC1, Q1, U5 and U7 and Parts 8, 12 and 15 of the NPPF regarding matters of amenity and personal safety under.

Conditions and Planning Obligations

100. The original redevelopment planning permission under DM/15/01626/FPA was subject to a legal agreement under Section 106 of The Town and County Planning Act 1990. The S106 agreement included obligations relating to financial contributions towards

connectivity solutions with the adjacent Milburngate House site, an improved lighting scheme adjacent to Framwelgate Waterside and, the inclusion of targeted recruitment and training clauses. As necessary, subsequent planning applications to vary conditions of the redevelopment planning permission were subject to a Deed of Variation of the original agreement. However, as all necessary planning obligations have been fulfilled there is no need for a further Deed of Variation pursuant to a further planning permission.

101. Under previous variation of condition approvals relating to this site, there was a need to rationalise the suite of planning conditions, so as to reflect the most up to date position. There is again the need to do this to reflect how the status of the conditions may have now changed.
102. Condition 1 of planning permission DM/18/00310/VOC required that the development commence by 19 November 2018. The overall development has commenced, is well advanced and there is no requirement to repeat this condition.
103. DM/18/00310/VOC Condition 2 requires the development to be carried out in accordance with a suite of plans and documents. This condition can be updated to reflect the most up to date lists of plans and documents, accounting for discharge of condition approvals which have occurred since the last grant of planning permission.
104. DM/18/00310/VOC Conditions 3 and 4 were those being sought for variation under that application. Collectively they control that night-time/over-night construction works can occur until 1st August 2018. This period of exceptional working has now ended. A standard working hours condition can therefore now apply to the remainder of the construction phase.
105. DM/18/00310/VOC Condition 5 requires that upon completion of the development a copy of any analysis, reporting, publication or archiving required as part of the archaeological mitigation strategy be deposited with the County Durham Historic Environment Record. This is still applicable and can be reapplied.
106. DM/18/00310/VOC Condition 6 relates to the final landscaping details of the development. Submissions in respect to landscaping have previously been made under discharge of condition application DRC/17/00302. However, some outstanding elements remain in regard to the final details of the proposed riverside green wall proposal. A landscaping condition therefore remains necessary.
107. DM/18/00310/VOC Condition 7 relates to the details of any plant, ventilation and extraction equipment required in regards to the student residential accommodation, cinema and each retail/shop (A1 use), financial and professional service (A2 use), bar/drinking establishment (A4 use), café/restaurant (A3 use) within the development. This has been partially discharged with details pursuant to the student accommodation, cinema and unit 43 approved. A condition will still be necessary to cover any remaining plant, ventilation and extraction equipment to serve the development.
108. DM/18/00310/VOC Condition 8 requires that the development be constructed in accordance with a series of plans detailing the external material finishes of the development and required details to be agreed in regards to some remaining materials. All these external material details have now been agreed with many constructed on site. A condition is still necessary to ensure any remaining elements of the build are undertaken in accordance with the approved plans.

109. DM/18/00310/VOC Condition 9 of planning permission DM/18/00310/VOC relates a scheme of public art within the development. Final details have not been agreed and a condition is still necessary.
110. DM/18/00310/VOC Condition 10 related to a scheme of public realm or hard landscaping works on or adjacent to the public highway at the junction of Milburngate and Framwelgate Waterside. These details have been previously agreed and can be listed as approved plans with no need to repeat the condition.
111. DM/18/00310/VOC Condition 11 approved a signage strategy providing the design parameters for future advertisements to be erected within the development and it is necessary to repeat such a condition.
112. DM/18/00310/VOC Condition 12 required the submission of a student accommodation management plan. This has been agreed and can now form part of the approved documents list with no need to repeat the condition.
113. DM/18/00310/VOC Condition 13 is the subject of this application with a variation to its wording discussed in this report.
114. DM/18/00310/VOC Condition 14 required the submission of a travel plan. This has been agreed and can now form part of the approved documents list with no need to repeat such a condition.
115. DM/18/00310/VOC Condition 15 requires that the development must be completed in accordance with the noise mitigation measures detailed within Environmental Statement. This is condition is considered to remain applicable and should be repeated.
116. DM/18/00310/VOC Condition 16 controls the hours of use of a loading bay for the construction phase and it is considered necessary that this be repeated.
117. DM/18/00310/VOC Condition 17 requires the agreement of final details of the proposed lift proposed at Milburngate Bridge/Framwelgate Waterside. Some details remain outstanding and as a result a condition should be repeated.

CONCLUSION

118. In the determination of a variation of condition application (Section 73), the LPA should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted (or that it should be granted unconditionally). If the variation sought is considered unacceptable then the application should be refused and the wording of the condition on the previous planning permission would continue to subsist/apply to the development.
119. The key consideration in this case, is the acceptability of the impacts upon residential amenity as a result of the proposed extension to the opening hours of the cinema.
120. Officers consider that the request to vary the opening hours, which has been amended during the course of the determination of the application, would result in a relatively modest adjustment to the opening hours from that previously agreed. It is considered that it would not result in any unacceptable detrimental impacts upon residential amenity for both occupiers of the development and neighbouring occupiers. As a result, the proposals are considered compliant with the key CDLP policies regarding

matters of amenity and personal safety and advice within the NPPF to this end. Approval is therefore recommended.

RECOMMENDATION

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

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

Plans:

Site Location Plan 100_002_REVA

Site Plan 050-310 Rev B

Demolition Car Park Level 1 050_D100

Demolition Car Park Level 2 050_D101

Demolition Car Park Level 3 050_D102

Demolition Mall Level 050_D103

Demolition Upper Level 050_D104

Demolition Roof Plan 050_D105

Demolition Elevations 050_D130

Demolition Sections 050_D140

Demolition Sections 050_D141

Proposed Level AOD 30 - Service/Parking 050_010 Rev D received 24 March 2017

Proposed Level AOD 32-35 - Parking Ancillary 050_011 Rev E

Proposed Level AOD 36 - Parking 050_012 Rev E

Proposed Level AOD 39 - Mall Level 050_013 Rev E received 24 March 2017

Proposed Level AOD 43 - First Floor Level 050_014 Rev E received 24 March 2017

Proposed Level AOD 46 - Second Floor Level 050_015 Rev E

Proposed Level AOD 49 - Deck/Third Floor Level 050_016 Rev D

Proposed Level AOD 52 - Roof Level 050_017 Rev E received 24 March 2017

Proposed Elevations Milburngate Road and River Frontage 050_301 Rev D received 24 March 2017

Sectional - East and West 050_302 Rev C

Sectional - Cinema/Amenity + North/Leazes 050_0303 Rev E received 24 March 2017

Sectional - Student Entrance/Courtyard 050_304 Rev C

Sectional - Underpass North/South 050_305 Rev C

Sectional - Shopping Street North/South 050_306 Rev D received 24 March 2017

Sectional - Framwellgate Bridge to Square East/West 050_307 Rev C

Proposed Elevations - Milburngate Road 050_310 Rev A

Proposed Planning Revisions 07 R09 SK 050 815 Rev A 24 March 2017

Detail Bay 1 051-701 Rev A

Detail Bay 2 051-702 Rev A

Detail Bay 3 051-703 Rev A

Detail Bay 4 051-704 Rev A

Detail Bay 5 051-705 Rev A

Detail Bay 6 051-706 Rev A

Proposed Level AOD 43 Colour Use Class 050_014 Rev D

Proposed Level AOD 39 Colour Use Class 050_013 Rev D

Proposed Level AOD 36 Colour Use Class 050_012 Rev D

Green Timber Hording (photograph)

Metal Fencing and Rhino Barrier (photograph)

"hoard-it" (photograph)

The Gates, Durham - Production Plan 'Site Offices, Welfare & Messing Facilities'

16-08-18 TC2 Sequencing REV000 Showing Tower Crane Installation Friday PM,
Tower Crane Installation Saturday AM, Tower Crane Installation Saturday PM,
Tower Crane Installation Sunday AM
Dwg entitled 'Proposed Lane Diversion' (Road Diversion Rev2) received 26 August
2016
Parking Plan 20-204 Rev P '36900 Existing Car Park level 3 "Parking Types"
Parking Plan 20-205 Rev P '41550 G00 Student Accommodation Level- Parking
Types'
Road Lane Markup 25 July
Dwg No. 1803-SK-C-007 Rev. 01 entitled 'CCTV Survey Review'
Dwg No. 1803-C-110 Issue P01 entitled 'Surface Water Requirement Above Ground
Level'
The Gates, Durham Production Plan "Constraints" January 2016
The Gates, Durham Production Plan "Pre-Construction Services Agreement" January
2016
The Gates, Durham Production Plan "Main Works Temporary Site Lighting to River
Frontage" January 2016
The Gates, Durham Production Plan "Main Works Temporary Site Lighting to
Scaffolded Elevations Adjacent River Frontage" January 2016
The Gates, Durham Production Plan "Main Works Phase 1: Overview" January 2016
The Gates, Durham Production Plan "Main Works Phase 1: Demolition Sequence"
January 2016
The Gates, Durham Production Plan "Main Works Phase 1: Principal Demolition
Areas" January 2016
The Gates, Durham Production Plan "Main Works: Phase 1: New Street/Retail
Accommodation" January 2016
The Gates, Durham Production Plan "Main Works Phase 1: New Street/Retail
Accommodation" January 2016
The Gates, Durham Production Plan "Main Works Phase 1: New Street/Retail
Accommodation" January 2016
The Gates, Durham Production Plan "Main Works Phase 1: Student Accommodation"
January 2016
The Gates, Durham Production Plan "Main Works Phase 1: Steel Grillage & Frame
Erection" January 2016
The Gates, Durham Production Plan "Main Works Phase 2: Overview" January 2016
The Gates, Durham Production Plan "Phase 2: Demolition Sequence" January 2016
The Gates, Durham Production Plan "Main Works Phase 2: Steel Grillage & Frame
Erection" January 2016
CS/074210_L_001 Landscape Masterplan
Proposed Planning Revisions 02 Kiosks SK-050-811 Rev A received 24 March 2017
Proposed Planning Revisions 03 Café Conversion SK-050-812 Rev A received 24
March 2017
Proposed Planning Revisions 04 Unit 38 SK-050-813 Rev A received 24 March 2017
Proposed Planning Revisions 05 Unit 42 & 07 Unit 44 WC SK-050-814 Rev A 24
March 2017
External Lighting Design Layout 1 of 2 EC-TGD-EXT-001A
External Lighting Design Layout 1 of 2 EC-TGD-EXT-002A
External Stairs Sheet 1 24-005 Revision C02
Traditional brick and brickslip scope 03_102 Rev C01
Traditional brick and brickslip scope 03_103 Rev C01
Detail A Revised Brick Verge Detail
Detail B MAN17 062 001 Rev D
Detail B MAN17 062 002 Rev D
Detail C
Millburngate Rd 1-50 Elevation 07 - GL X55 to GL X45 22-007 Rev C02

Phase 1 Student Resi Deck North Facing 1-50 Elevation 03 - GL Y31 to GL Y37 22-07 Rev C03
Sections Along GL Y37 Between GL X46 & X55 25-055 Rev C01
Escape Stair to Millburngate Road - Phase 01 - Plans & Section 25-339 Rev C01
ADS Ltd SL-300 Acoustic Louvre specification
EDPAC Integrated Air Management Systems for Cinemas specification
Roof Ventilation Layout 3580/T203.A.
Odeon Plant Room Roof Plan 47-115 C05
Milburngate Underpass Improvements CGI_017 Rev A
Roof Cowl - Setting Out 47-127 Rev C01
Proposed Ortho NE-SE 050_308 Rev P02
Proposed Ortho NW-SW 050_309 Rev P02
Proposed Plant Enclosure 2 051-722 Rev A
Proposed Plant Enclosure 1 051-721 Rev A
J Series VRF (Outdoor) Condensing Unit Specification
Roof Plan C192(S2)02 A
Proposed Plans and Elevations C192(S2)01 B
050_380 C02 External Building Materials Riverwalk Passage - South Elevation
050_379 C01 External Building Materials Riverwalk Passage North Elevation
050_378 C02 External Building Materials Student Resi Deck Elevations 2 of 2
050_377 C02 External Building Materials Student Resi Deck Elevations 1 of 2
050_376 C03 External Building Materials North Road Elevation
050_375 C02 External Building Materials Framwellgate Bridge Entrance
050_374 C03 External Building Materials Shopping Square East
050_373 C02 External Building Materials Shopping Street South
050_372 C02 External Building Materials Shopping Street North Student Residential Elevation
050_371 C03 External Building Materials Shopping Street Elevation North
050_370 C03 External Building Materials Underpass South
050_369 C03 External Building Materials Underpass North
050_368 C03 External Building Materials Bookend Elevation South
050_367 C02 External Building Materials Student Entrance Courtyard North
050_366 C02 External Building Materials Milburngate Road Student Residential Flank Elevation
050_365 C03 External Building Materials Student Entrance Courtyard South
050_364 C02 External Building Materials North Elevation 2 of 2
050_363 C03 External Building Materials North Elevation 1 of 2
050_362 C03 External Building Materials Promenade Elevation West 2 of 2
050_361 C03 External Building Materials Promenade Elevation West 1 of 2
050_360 C03 External Building Materials Shopping Square West 2 of 2
050_359 C03 External Building Materials Shopping Square West 1 of 2
050_358 C03 External Buildings Materials River Frontage 4 of 4
050_356 C02 External Buildings Materials River Frontage 2 of 4
050_355 C01 External Building Materials River Frontage 1 of 4
050_354 C03 External Building Materials Milburngate Road 4 of 4
050_353 C03 External Building Materials Milburngate Road 3 of 4
050_352 C02 External Building Materials Milburngate Road 2 of 4
050_351 C02 External Building Materials Milburngate Road 1 of 4
Melody 1 Lifting Platform Brochure
Platform Lift H Floor Plan and Sections 24-022.P01
Level L0 Lifts and Stairs Key Plan 24-015 C02
Bookend Lift River Level Plan 25 030 P05
Bookend Setting Out Plans 25 031 P08
Bookend Elevations Sheet 1 25 032 P06
Bookend Elevations Sheet 2 25 033 P06
Bookend Sections 25 034 P07

Bookend Lift Cladding Section Details Sheet 1 25 035 P05
Bookend Lift Cladding Section Details Sheet 2 25 036 P04
Bookend Lift Cladding Plan Details 25 037 P05
Bookend Section Details 25 038 P04

Documents:

Arboricultural Impact Assessment NLP_TheGates_AIA1.1
Bat Survey NLP_TheGates_Bat1.2
Ecology Report NLP_TheGates_Eco1.2
Flood Risk Assessment by Patrick Parsons
Construction Management Strategy (2 of 3) prepared by Sir Robert McAlpine received 20/04/2016.
Construction Management Strategy (3 of 3) prepared by Sir Robert McAlpine received 20/04/2016. Issues with the VOC
Dust Management Plan dated 16th June 2016
Email from NLP Planning to Durham County Council sent on 17 June 2016 at 13:23 entitled 'Additional Information for The Gates,Noise, Construction Methods, Dust, Working Hours'
Amended Construction Management Strategy prepared by Sir Robert McAlpine '4.0 Method Statement & Construction Methodology' received 17 June 2016.
Noise Management Plan prepared by Sir Robert McAlpine dated 16 June 2016
'Traffic Management Plan' prepared by Company Management System dated 20th July 2016
Email from SRM to Durham County Council sent on 19 August 2016 at 08:02 entitled 'The Gates: TC2 and 3, installation and removal'
Letter from Wardell Armstrong to Durham County Council dated 7 March 2015 regarding HGV movements and air quality.
Archaeological Written Scheme of Investigation, prepared by Addyman Archaeology dated January 2016.
Noise Report prepared by Sandy Brown Associates LLP dated 5 April 2016
Car Park Report "The Gates Shopping Centre" prepared by The Gates Centre Manager.
Below Ground Drainage Strategy, prepared by Meinhardt UK (Issue P3) 9th November 2015)
The Gates Addendum Environmental Statement Updated Volume 1 Non-Technical Summary May 2016
The Gates Addendum Environmental Statement (May 2016) Vol II Main Assessments
The Gates Addendum Environmental Statement (May 2016) Volume 3 Appendix 4.4 Sound Management Speedy Acoustic Barrier
The Gates External Lighting Report by Sir Robert McAlpine dated 18/12/2016 and received 13 February 2017
Email confirmations "Additional Lighting Info" dated 22nd March 2017
Rationalised Design Document July 2016 (notwithstanding any details subsequently submitted on the approved plans received 24th March 2017 listed above)
Gates Planning Addendum List of Changes (notwithstanding any details subsequently submitted on the approved plans received 24th March 2017 listed above)
BRUKL Output Document - The Gates Durham Student Preliminary Calc
Sustainability Statement - Executive Summary Report Milburngate Shopping Centre, Durham August 2016
Riverwalk Signage Strategy 16/05/17
Covering letter 22458/JW/GB/12376379v1
The Gates, Durham Final Travel Plan Ref 108076-001 v4 dated 11/12/2018
Version 1.0 Dun Holm House Durham Management Plan January 2019
Heat Recovery Unit Specification Sheet included in email from Russell Toogood dated 25 February 2019

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to Policies E3, E6, E14, E15, E16, E21, E22, E23, E24, H16, T1, S1a, S1, S2a, R11, CC1, Q1, Q2, Q4, Q5, U5, U7 and U10 of the City of Durham Local Plan and Parts 2, 4, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the NPPF.

3. No construction/demolition works shall take place outside the hours of 8am and 6pm Monday to Friday and 8am to 1pm on a Saturday. No works shall occur on any Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to Policy U5 of the City of Durham Local Plan and Part 15 of the NPPF.

4. Upon completion of the development a copy of any analysis, reporting, publication or archiving required as part of the archaeological mitigation strategy within document Archaeological Written Scheme of Investigation, prepared by Addyman Archaeology dated January 2016 shall be deposited at the County Durham Historic Environment Record.

Reason: In the interests of preserving archaeological assets having regards to Policy 24 of the City of Durham Local Plan and Part 16 of the NPPF.

5. Within a period of 1 month from the date of this permission a final detailed landscaping scheme for the development must be submitted to the Local Planning Authority.

The landscape scheme shall include the following:

Any trees, hedges and shrubs scheduled for retention

Details of soft landscaping including planting species, sizes, layout, densities, numbers

Details of planting procedures or specification

Finished topsoil levels and depths

Details of temporary topsoil and subsoil storage provision

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

Details of hard landscaping

Final details of the extent, appearance, construction and planting details and any specific maintenance regimes of the "Green/Living Walls"

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

No landscaping works should take place until the submitted scheme has been approved in writing by the Local Planning Authority. The approved landscaping scheme must be carried out in accordance with the approved details. The approved landscaping scheme shall be carried out in the first available planting season following the completion of the development or in accordance with any specific timescales detailed within the approved scheme.

Reason: In the interests of the visual amenity of the area having regards to Policies E6, E22 and Q5 of the City of Durham Local Plan and Parts 12, 15 and 16 of the NPPF.

6. The following detailed submissions on the location and design of any plant, ventilation and extraction equipment are approved which relate to the student residential accommodation, the cinema and unit 43.

ADS Ltd SL-300 Acoustic Louvre specification
EDPAC Integrated Air Management Systems for Cinemas specification
Roof Ventilation Layout 3580/T203.A.
Odeon Plant Room Roof Plan 47-115 C05
Roof Cowl - Setting Out 47-127 Rev C01
Proposed Ortho NE-SE 050_308 Rev P02
Proposed Ortho NW-SW 050_309 Rev P02
Rooftop Plant Enclosures 18.09.18 Constraints and Rationalisation Document
Proposed Plant Enclosure 2 051-722 Rev A
Proposed Plant Enclosure 1 051-721 Rev A
Heat Recovery Unit Specification Sheet included in email from Russell Toogood dated 25 February 2019
J Series VRF (Outdoor) Condensing Unit Specification
Roof Plan C192(S2)02 A
Proposed Plans and Elevations C192(S2)01 B

The development must be constructed/completed in accordance with the above approved details.

Prior to the occupation of each remaining retail/shop (A1 use), financial and professional service (A2 use), bar/drinking establishment (A4 use), café/restaurant (A3 use) unit within the development, final details of the location and design of any plant, ventilation and extraction equipment required for each of the uses/units shall be submitted to and approved in writing by the Local Planning Authority. The submitted details must include the noise attenuation measures and carbon filtration measures as established within Chapters H and I of the Environmental Statement Volume II. The development shall thereafter be constructed/completed in accordance with the approved details.

Reason: In the interests of defining the consent, visual amenity, noise and odour issues having regards to Policies E6, E22, U5 and U7 of the City of Durham Local Plan and Parts 12, 15 and 16 of the NPPF.

8. The materials used in the construction/completion of the development hereby approved must accord with the plans listed below.

050_380 C02 External Building Materials Riverwalk Passage - South Elevation
050_379 C01 External Building Materials Riverwalk Passage North Elevation
050_378 C02 External Building Materials Student Resi Deck Elevations 2 of 2
050_377 C02 External Building Materials Student Resi Deck Elevations 1 of 2
050_376 C03 External Building Materials North Road Elevation
050_375 C02 External Building Materials Framwellgate Bridge Entrance
050_374 C03 External Building Materials Shopping Square East
050_373 C02 External Building Materials Shopping Street South
050_372 C02 External Building Materials Shopping Street North Student Residential Elevation
050_371 C03 External Building Materials Shopping Street Elevation North
050_370 C03 External Building Materials Underpass South
050_369 C03 External Building Materials Underpass North
050_368 C03 External Building Materials Bookend Elevation South
050_367 C02 External Building Materials Student Entrance Courtyard North

050_366 C02 External Building Materials Milburngate Road Student Residential Flank Elevation
050_365 C03 External Building Materials Student Entrance Courtyard South
050_364 C02 External Building Materials North Elevation 2 of 2
050_363 C03 External Building Materials North Elevation 1 of 2
050_362 C03 External Building Materials Promenade Elevation West 2 of 2
050_361 C03 External Building Materials Promenade Elevation West 1 of 2
050_360 C03 External Building Materials Shopping Square West 2 of 2
050_359 C03 External Building Materials Shopping Square West 1 of 2
050_358 C03 External Buildings Materials River Frontage 4 of 4
050_356 C02 External Buildings Materials River Frontage 2 of 4
050_355 C01 External Building Materials River Frontage 1 of 4
050_354 C03 External Building Materials Milburngate Road 4 of 4
050_353 C03 External Building Materials Milburngate Road 3 of 4
050_352 C02 External Building Materials Milburngate Road 2 of 4
050_351 C02 External Building Materials Milburngate Road 1 of 4
Melody 1 Lifting Platform Brochure
Platform Lift H Floor Plan and Sections 24-022.P01
Level L0 Lifts and Stairs Key Plan 24-015 C02

Reason: To define the consent and in the interests of visual amenity having regards to Policies E3, E6, E22 and E23 of the City of Durham Local Plan and Parts 12 and 16 of the NPPF.

9. Within a period of 1 month from the date of this permission a final detailed scheme for for the introduction of artistic elements/features into the development must be submitted to the Local Planning Authority. Thereafter the art scheme must be completed/constructed in accordance with the details approved by the Local Planning Authority and in accordance with a timetable of completion of the scheme contained therein.

Reason: In the interests of the provision of art in development having regard to Policy Q15 of the City of Durham Local Plan.

10. Signage strategy entitled Riverwalk Signage Strategy 16/05/17 is approved. The approved strategy shall provide the design parameters for future advertisements to be erected within the development.

Reason: In the interests of visual amenity having regards to Policies E6 and E22 of the City of Durham Local Plan and Parts 12 and 16 of the NPPF.

11. Occupation/operation of the A3 and A4 uses hereby approved shall be in accordance with the opening hours details on covering letter 22458/JW/GB/12376379v1. Those opening hours being;

A3 and A4 uses - Open between 8am and 12 midnight Sunday to Thursday inclusive (including on public holidays) and between 8am to 1am on a Friday and Saturday inclusive (including on public holidays)

The D2 cinema use hereby approved shall only be open to customers in accordance with the hours and restrictions listed at i) and ii) below and at no other time;

- i) Open between 9am to 1am Sunday to Thursday inclusive (including on public holidays) and 9am to 2am on Friday and Saturday inclusive (including on public holidays)

- ii) Exceptionally, and for no more than a maximum of 10 occasions in any calendar year, the D2 cinema use is permitted to be open between the hours of 9am and 3am on any day of the week

Reason: In the interests of defining the consent and residential amenity having regards to Policies H16, CC1, Q1, U5 and U7 of the City of Durham Local Plan and Parts 8, 12 and 15 of the NPPF.

12. No development (including demolition) shall take place unless in full accordance with the noise mitigation measures detailed within section H6 (Chapter H) of the submitted Environmental Statement Volume II.

Reason: In the interests of ensuring adequate levels of amenity for the future occupiers of the development having regards to Policy U7 of the City of Durham Local Plan and Part 15 of the NPPF.

13. Notwithstanding details contained within any approved documents listed at condition no. 1, during the site working hours permitted by condition no. 3 no use of the "Phase 1 unloading bay" as detailed within approved document "Traffic Management Plan" prepared by Company Management System dated 20th July 2016 shall occur during the hours of 8am-10am and 4pm-6pm.

Reason: In the interests of acceptable traffic management and highway safety having regards to City of Durham Local Plan Policy T1.

14. Within a period of 1 month from the date of this permission the final details of the timescales for the construction and completion of the lift proposed at Milburngate Bridge/Framwelgate Waterside must be submitted to the Local Planning Authority. Thereafter the lift must be constructed and available for use in accordance with timescales approved.

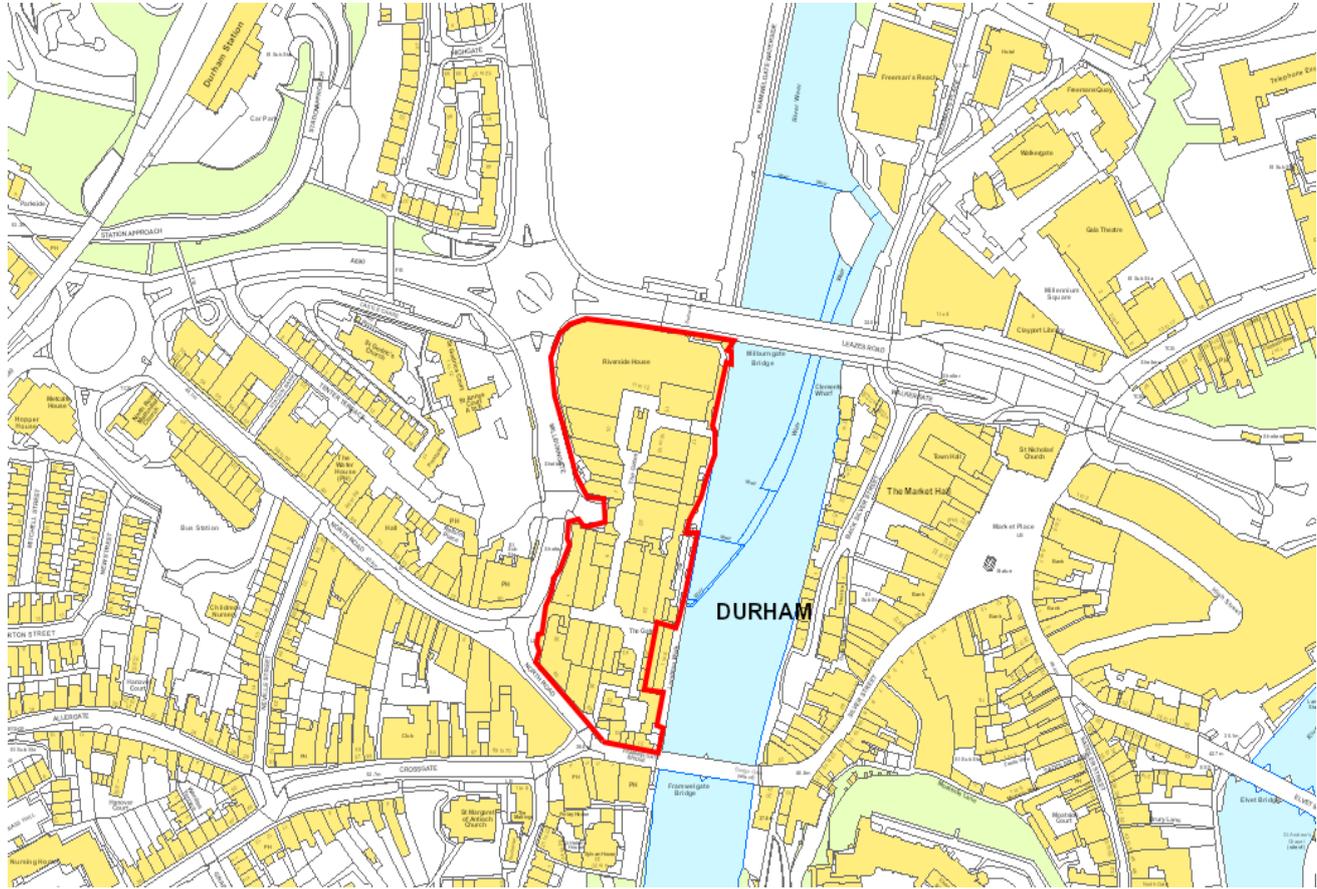
The lift must be constructed in accordance with the following plans and details;

Bookend Lift River Level Plan 25 030 P05
Bookend Setting Out Plans 25 031 P08
Bookend Elevations Sheet 1 25 032 P06
Bookend Elevations Sheet 2 25 033 P06
Bookend Sections 25 034 P07
Bookend Lift Cladding Section Details Sheet 1 25 035 P05
Bookend Lift Cladding Section Details Sheet 2 25 036 P04
Bookend Lift Cladding Plan Details 25 037 P05
Bookend Section Details 25 038 P04

Reason: In the interests of highway safety and pedestrian connectivity having regards to City of Durham Local Plan Policies T1 and T21 and Part 9 of the NPPF.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (as amended)
- National Planning Practice Guidance notes
- City of Durham Local Plan 2004
- Statutory, internal and public consultation responses



Planning Services

DM/18/03487/VOC

Variation of condition 13 pursuant to planning permission DM/18/00310/VOC so as to extend the opening hours for the D2 cinema use so as to open 1 hour earlier (9am) and 1 hour later (1am) Sunday to Thursday, 1 hour earlier (9am) Friday and Saturday with opening permitted until 3am on up to 10 occasions per year

The Riverwalk Millburngate Durham DH1 4SL

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Comments

Date May 2019

Not to Scale