

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/01711/FPA
FULL APPLICATION DESCRIPTION:	Demolition of sections of enclosure and provision of access in association with use of a car park and associated works
NAME OF APPLICANT:	Durham Sixth Form Centre
ADDRESS:	Durham Sixth Form Centre, The Sands, Durham DH1 1SG
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

The Site

1. The application site comprises of an irregular shaped parcel of land extending to approximately 0.4ha. The land forms part of the curtilage of Durham Sixth Form Centre (DSFC) which is located within Durham City Centre. The majority of the site consists of land once used as tennis/sports courts with associated hardsurfacing and mesh fencing enclosures. In the south of the application site is a building, formally a caretakers lodge, most recently used for cycle storage for students at DSFC. In the east of the site is an area of hardsurfacing and parking closest to the school building. To the west of the site is Freemans Place the boundary with which is formed predominantly by a low wall with piers and wrought iron railings atop but also with areas of timber fencing. In the north of the site there is a section of a further brick wall which runs on an east-west axis. Beyond this wall and north of the application site is an area of land currently used for car parking associated with the DSFC. East of the application site is other land within the curtilage of DSFC including a further area of car parking. A number of trees are located within and on the boundary of the site, this includes on land between the sports courts and the car park north of the site, between the sports courts and Freemans Place and between the sports courts and the caretakers lodge building. A footpath runs on a north-south axis between the sports courts and Freemans Place.
2. Though described as sports courts throughout this report, the courts have not been in any active use as such for a number of years. The sports courts are currently already

used for parking accessed by vehicles via an existing access point in the north-east corner of the site.

3. The site lies within the designated Durham (City Centre) Conservation Area. There are no designated Public Rights of Way (PRoW) within or abutting the site.

The Proposal and Background

4. Planning permission is sought for the demolition of a series of enclosures. Sections of brick wall and wrought iron railings adjacent to Freemans Place are sought for demolition together with an area of fencing and the mesh surrounds to the sports courts. Such works are frequently permitted development which can be undertaken without the need for planning permission. This is not the case in this instance due to a combination of their height and location within a conservation area.
5. These works are sought to facilitate the provision of a new vehicular access taken from Freemans Place in the south of the site together with a new section of footway adjacent to the Freemans Place. Freemans Place, though adopted, is not a classified road and the provision of a new access onto Freemans Place could, in some circumstances, be undertaken without the benefit of planning permission. However, it forms part of the planning application in this instance due to association with other works which do require planning permission. An area of retaining wall is proposed adjacent to this footpath on its more northerly section.
6. The use of the sports courts land for car parking itself is not a material change in use of the land as it is car parking for the purposes of the school on school land. Parking has already been occurring on the sports courts. It is proposed to lay a new hard surface atop of the existing sports court surface. Demarcation to provide 72 parking spaces is proposed. On the hardsurfaced land in the east of the site closest to the building the plans depict further parking spaces, including 5 no. accessible spaces, with 3 no. motorcycle spaces. The plans propose to remove the existing 13 no. 8m high lighting columns and provide 4 new 8m high lighting columns to serve the parking area. The application documentation explains that access to the car park is proposed to be restricted via an electronic gate with intercom system.
7. The access sought to the sports court land from Freemans Place for the purposes of parking is proposed so that replacement parking for DSFC can be provided as an alternative to the land to the north of the site which is proposed for redevelopment for a multi storey car park as part of the Council's HQ scheme. This land to the north is allocated for redevelopment under the City of Durham Local Plan (Policy CC3) and the parking has been ongoing as a use of the site in the absence of any alternative redevelopment scheme for a number of years. At any time when a redevelopment proposal were to emerge this would require DSFC pursuing alternative parking arrangements.
8. At the time of the writing of this report, works had commenced on some aspects of development within the application though these relate to aspects (surfacing works to the sports court and footpath works) that in their own right can be undertaken as permitted development and without the requirement for planning permission.
9. The application is being reported to the Central and East Area Planning Committee following a request from the City of Durham Parish Council.

PLANNING HISTORY

10. Whilst quite extensive planning application history relates to the wider DSFC site itself, this does not relate specifically to the land subject to this planning application.
11. An application for works to trees in a conservation area which includes those within this application site is pending consideration (19/01709/TCA).
12. Notable recent history at the DSFC includes the following applications;

17/02606/FPA - New multimedia facility and reconfiguration of car parking provision – Approved – January 2018
17/03143/FPA - Modifications improvement and extension of existing car parking facilities including the addition of disabled parking bays – Approved – November 2017
18/01995/FPA - Multimedia teaching block (amendments to previously approved scheme) – Approved – September 2018
13. Further planning history of significance in the immediate area includes the April 2019 grant of planning permission at the Sands car park and land at DSFC car park for the erection of an office headquarters with associated car parking (inclusive of a multi-storey car park) with associated landscaping, highway and infrastructure works and demolition of existing structures (18/02369/FPA).

PLANNING POLICY

NATIONAL POLICY

14. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). 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.
15. 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 the 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.
16. *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.
17. *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.

18. *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.
19. *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.
20. *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.
21. *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.
22. *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.
23. *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.
24. *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>

25. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; determining a planning application; flood risk; light pollution; natural environment; neighbourhood planning; open space, sports

and recreation facilities, public rights of way and local green space; 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)

26. *Policy E3 – World Heritage Site Protection.* Seeks to safeguard the WHS site and its setting from inappropriate development that could harm its character and appearance.
27. *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 that are sympathetic to the traditional character of the conservation area.
28. *Policy E10 – Areas of Landscape Value.* States that development which would have an unacceptable adverse impact upon areas of high landscape value will be resisted and requiring that development respects the landscape it is situated within.
29. *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.
30. *Policy E16 – Nature Conservation – The Natural Environment.* This policy is aimed at protecting and enhancing nature conservation assets. 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.
31. *Policy E18 – Site of Nature Conservation Importance.* The Council will seek to safeguard sites of nature conservation importance unless the benefits from the development outweigh the nature conservation interests of the site, there are no alternatives sites and measures are undertaken to minimise adverse effect associated with the scheme and reasonable effort is made by appropriate habitat creation or enhancement to compensate for damage.
32. *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.
33. *Policy E22 – Conservation Areas.* This policy seeks to preserve or enhance the character or appearance of conservation areas, by not permitting harmful development and protecting features which positively contribute to the conservation area.

34. *Policy E23 – Listed Buildings.* This policy seeks to safeguard Listed Buildings and their settings from unsympathetic development.
35. *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 or requiring investigation and evaluation where preservation in situ is not necessary.
36. *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.
37. *Policy T10 – Parking – General Provision.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
38. *Policy T11 – Parking in the City Centre.* Supports a car parking strategy in the City Centre.
39. *Policy T21 – Walkers Needs.* States that existing footpaths and public rights of way should be protected.
40. *Policy R1 – Provision of Open Space.* States that the council will seek to ensure that the provision of open space for outdoor recreation within the district is evenly distributed and is maintained at a level which meets the needs of its population.
41. *Policy R3 – Protection of Open Space Used for Recreation.* States that development which would result in the loss of an area of open space currently used for recreation and leisure pursuits will not be permitted unless certain criteria are met.
42. *Policy R4 – Land Surplus to Education Requirements.* Permits the development of land within education establishment grounds, provided that the land is surplus to requirements and any loss of recreational land is acceptable.
43. *Policy Q1 – General Principles Designing for People.* Requires the layouts of developments to take into account the requirements of users including: personal safety and security; the access needs of people with disabilities and the elderly; and the provision of toilets and seating where appropriate.
44. *Policy Q2 – General Principles Designing for Accessibility.* The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
45. *Policy Q3 – External Parking Areas.* Requires that car parks should be landscaped, adequately surfaced, demarcated, lit and signed. Large exposed areas of surface, street and rooftop parking are not considered appropriate.
46. *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.

47. *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.
48. *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.
49. *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.
50. *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 will be assessed. Before development takes place it is important that the nature and extent of contamination should be fully understood.
51. *Policy U12 – Development Near Contaminated Land.* Seeks to ensure that development proposed near land which is contaminated are adequately protected.

EMERGING PLAN:

The County Durham Plan

52. 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 27 June 2019. A timetable for the Examination in Public (EiP) of the CDP has been devised with the Hearings set to commence in October 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

Durham City Neighbourhood Plan

53. 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:

54. *City of Durham Parish Council – Raise Objections.* It is highlighted that the sports courts are being utilised for parking at present. The quantum of parking claimed to have reduced by 81 under the assessment of the Council's HQ proposal is not correct as they are now being re-provided with the 85 no spaces proposed under this application. The submitted Transport Assessment does not take into account the impacts of the proposed HQ development as a committed development. The proposed footpath needs

to link to the footpath that would be required adjacent to the MSCP and this will necessitate the narrowing of the road on a sharp blind bend.

55. *Highway Authority* – Raise no objections. The trip generation methodology deployed within the submitted Transport Assessment is considered acceptable. The increase in traffic as a result of the provision of the car parking would result in a negligible impact within the City whilst the Claypath/Providence Row Junction would continue to operate within capacity. Details of the proposed access barrier should be controlled via a condition to prevent unacceptable queuing on the highway.
56. *Environment Agency* – State that the development would result in the loss of 12m³ of floodplain as a result of the provision of the vehicular access route and this 12m³ must be compensated for with alternative floodplain storage.

INTERNAL CONSULTEE RESPONSES:

57. *Landscape and Arboriculture* – Originally considered that inadequate information in regards to the impact of the footpath and excavation to form access in relation to trees accompanied the application. However, following the receipt of clarifications from the applicant no objections are raised.
58. *Archaeology* – No objections and no requirements for conditions.
59. *Design and Conservation* – The removal of existing lighting columns, sports court and timber fencing will remove elements of visual clutter whilst landscaping is to be retained. The section of wall, piers and railings sought for demolition is a non-designated heritage asset which contributes to the historic character of the Conservation Area. Having regards to NPPF paragraph 197 the application should be weighed in the planning balance having regards to the merits of the scheme and the scale of any harm or loss of the asset.
60. *Ecology* – Raise no objections. The supplied ecological report is considered sufficient to inform this proposal despite the June 2017 report date. The report found that trees around the site were low to negligible risk for bats but found them suitable for breeding birds. Trees have been checked again by DCC Ecology earlier this year and found them to still be low/negligible risk for bats.
61. *Environment, Health and Consumer Protection (Contaminated Land)* – No objections and no requirement for conditions.
62. *Environment, Health and Consumer Protection (Air Quality)* –The submitted Air Quality Assessment (AQA) has been undertaken to an appropriate methodology. In regards to the operational phase of the development the AQA demonstrates that air quality objectives would not be exceeded. In regards to the demolition/construction phase it is advised that dust management plan measures should be deployed. It is also advised that details of the number and routing of Heavy Duty Vehicle movements during the demolition/construction phase should be provided. The emission minimisation measures presented within the AQA in relation to plant should be adhered to. Electric vehicle charging infrastructure should be encouraged in the car park.

EXTERNAL CONSULTEE RESPONSES:

63. None

PUBLIC RESPONSES:

64. The application has been publicised by way of press notice, site notice, and individual notification letters to neighbouring residents. A total of 3 letters of representation have been received which raise objections/concern. The responses received are summarised below and include comments from the World Heritage Site Coordinator and City of Durham Trust.

- Objection raised to the submission of this application in a disconnected manner from the HQ proposal. The applications are linked with the proposals under this application a result of the HQ development adjacent.
- As this site and the proposed HQ development land are Council owned doubt is cast on the ability of the Council to properly administer and promote policies which seek to protect and enhance heritage assets.
- The application fails to properly deal with the cumulative impacts it and the HQ proposal have on the Sands and river approach to the World Heritage Site and highways implications.
- Access arrangements into the site for both vehicles and pedestrians.
- It is unclear what the development will look like from Freemans Place due to an absence of adequate plans.
- Cumulative harm with the HQ proposal will occur through a further urbanising impact upon the historic edge to the historic core of the City.
- Concern is raised that further potential knock-on implications of the HQ proposal will occur.
- Increased visual impacts due to the car parking on the site and the associated lighting.
- Benefits of the proposal are lacking
- The access will isolate the caretakers lodge building negatively affecting the asset
- Loss of original school enclosure
- Loss of the sports courts and contribution to health and well-being
- The submitted ecology reports requires lighting to be ecologically sensitive
- The ecology report is considered out of date
- Consideration to potential mitigation measures and amendments should be given
- Concerns over flood with objections from the Environment Agency

The above is not intended to repeat 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/simpleSearchResults.do?action=firstPage>

APPLICANTS STATEMENT:

65. None submitted.

PLANNING CONSIDERATIONS AND ASSESSMENT

66. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. The NPPF advises that weight to local plan/development plan policies adopted prior to the publication of the NPPF (in its revised form) should be attributed according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Existing policies should

not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Equally, however, where evidence, which informed a policy, has been superseded by more up-to-date evidence or is otherwise out of date, this can also be a reason to conclude the policy itself is out of date. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to; the principle of the development; highway safety and access; air quality, heritage, visual and landscape impact; flood risk and ecology. Other relevant issues are also considered.

Principle of the Development

67. The application site is principally made up of land laid out as a sports court associated with DSFC. CDLP Policies R1, R3 and R4 relate to recreational land and land deemed surplus to education requirements and collectively seek to maintain an appropriate level of open and recreational spaces, protecting such land from development unless it is justified and would not prejudice provision for the community. These policies are considered consistent with the content of the NPPF Part 8 advice albeit the standards within Policy R1 are now outdated, replaced with more up to date evidence contained within the County Durham Open Space Needs Assessment (OSNA).
68. The use of the sports courts land for car parking in itself is not a material change in use of the land as it is car parking for the purposes of the school on school land. Parking has already been occurring on the sports courts. Notwithstanding this the sports court has not been in any active use for sports and recreational purposes for a significant length of time and as a result has clearly been surplus to requirements and as a result no conflict with the policies seeking to protected recreational land would result. The impacts of the various elements of operational development proposed under the application is discussed in sections below.
69. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development and this is detailed at paragraph 11 which states;

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) 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 this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; 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.

70. In this instance and discussed where relevant in this report, CDLP policies most important for determining the planning application, are considered out-of-date. Accordingly, the acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF. Such an assessment is undertaken in the concluding sections of this report, following consideration and assessment of all the key material planning considerations.

Highway Safety and Access

71. No material change of use of the sports court land is required in order to permit parking upon the courts for DSFC purposes. A route for vehicles to access the sports court area already exists from within the curtilage of DSFC and parking has been taking place on the land. However, the current access route through the curtilage of DSFC is not the preferred long-term route of the applicant hence the submission of this application. As referenced earlier the requirement for DSFC to identify alternative parking arrangements has emerged as a result of the redevelopment of the existing car park to provide for a multi storey car park as part of the Council's HQ scheme.
72. Notwithstanding this, the application is nevertheless supported by a Transport Assessment (TA) which has been amended during the course of the determination of the application. The revised TA considers a range of transport issues including the existing site and local conditions, site accessibility and description of the development proposals. An analysis of the predicted traffic generation and distribution and impacts of vehicular movements on the highway network is also provided. This analysis includes consideration of cumulative impacts with other developments within planning permission including the recently approved proposals for the Council's HQ on neighbouring land.
73. The Highway Authority have assessed the submitted TA and raised no objections to both its methodology or the predicted impacts upon the highway network contained therein. It is highlighted within both the TA and comments of the Highway Authority that the net increase in parking spaces to be considered is 63. There is reference within the submitted documentation to a total parking space provision of 85. However, it should be noted that this number includes reference to 22 parking spaces which already have planning permission under the recent media centre development proposals at DSFC. These 22 spaces are thereby already factored into the TA as a commitment and so the additional movements for consideration emerges from the 63 spaces.
74. The Highway Authority advise that the TA presents that arrivals and departures would be concentrated in the peak hours of 07:30 to 08:30 and 16:30 to 17:30. The traffic surveys have been increased to allow for background growth up to 10 years after opening in line with standard practice. The Highway Authority have stated that the results of the TA analysis demonstrates that the proposed development would have a negligible impact across the City as a whole with the exception being the Providence Row and Claypath junction which is predicted to have a marginal increase of around 3%. The analysis of the Providence Row and Claypath junction shows that the junction would continue to operate within capacity in future years.
75. The Highway Authority have raised no objections to the safety of the proposed access arrangements. This assessment includes consideration to the committed development of the Council's HQ with its associated access on land opposite at the Sands carpark and, farther north, to the proposed multi-storey car park. The application also includes the provision of a proposed footpath, principally running adjacent to the Freemans Place carriageway. This would connect with a proposed footpath on land to the north where the multi storey car park is proposed.
76. The Highway Authority thereby conclude that there are no reasons on highway or transport grounds to object to the proposed development. It is advised, however, that details of the proposed access barrier should be controlled via a condition in the event of an approval in order to prevent unacceptable queuing on the highway.

77. The development is considered to comply with relevant CDLP Policies T1, T21, Q1 and Q2 each of these policies are considered consistent with the NPPF and can be attributed their full weight. CDLP Policy T11 advises on a parking strategy for the City Centre. The policy is considered partially consistent with the NPPF with some of the evidence which informs it being out of date. An objective of the policy is to seek to limit any increase in private non-residential parking, which through facilitating the provision of a car park for DSFC, the development would be in some conflict with. However, as discussed, no change of use of land is actually required for DSFC to park on the site and the purposes of the car park is to re-provide spaces (rather than create additional spaces for DSFC) given the Council's HQ proposals on neighbouring land.
78. CDLP Policy T10 seeks to minimise the level of provision within new development including setting maximum parking guidelines for residential development. However, this is considered contrary to the more up to date advice within NPPF Part 9, which advocates a more flexible approach and advises against maximum parking standards unless there are compelling reasons for doing so. As a result, very little weight is attributed to Policy T10.
79. The development is considered to comply with relevant advice in Part 9 of the NPPF.

Air Quality

80. Notwithstanding that parking is already being undertaken on the site the application is nevertheless supported by an Air Quality Assessment (AQA). Durham City has a declared Air Quality Management Area (AQMA) and whilst the application site is not within it, the AQMA does cover land in the vicinity of the Providence Row/Claypath junction and Walkergate through which vehicles visiting Freemans Place travel.
81. Like the submitted TA, the AQA takes into account committed development including the Council's HQ development proposals. In regard to the operational phase of the development (movements associated with the car parking) the AQA concludes that impacts at all identified receptors would be negligible.
82. In regards to the construction/demolition phase of the development the AQA sets out a series of mitigation measures that should be employed to reduce risk and so as to ensure the air pollutants from any diesel plant is minimised. Environment, Health and Consumer Protection have advised the a detailed Dust Management Plan be devised, that full details of HDV movements and routing be provided whilst emission minimisation measures presented within the AQA in relation to plant should be adhered to. The submitted AQA does include some dust management measures and states that any HDV movements are expected to be below the 25 movements over the Annual Average Daily Traffic (AADT) flow which is the level at which impacts would be of any significance. As a result and given that some of the development works proposed can and are being undertaken under permitted development rights no further control via condition in the event of an approval in respect to HDV movements or dust management measures are deemed necessary.
83. Environment, Health and Consumer Protection also encourage electric vehicle charging infrastructure within the car park. It is not detailed within the application that these would be delivered, however, the car park itself does not require planning permission and as a result it is not considered that their delivery can be necessitated.
84. As a result, no objections to the development are raised on the grounds of potential air quality pollution impacts with the proposals compliant with relevant CDLP Policy U5 (NPPF consistent) and advice contained within Part 15 of the NPPF.

Heritage, Visual and Landscape Impact

85. The proposals would result in the demolition of sections of enclosure. This would include sections of wall, piers and railings which form part of the boundary of DSFC. These sections of wall, piers and railings to Freemans Place are understood to have been constructed at the same time as the original school in 1913. They contribute to the significance of the school and can be considered a non-designated heritage asset in NPPF terms which contribute to the character of the Conservation Area. The timber fencing, mesh surrounds to the sports courts, lighting columns and areas of footpath and kerbing to be removed/altered as part of the works are considered to make no positive contribution to the character or appearance of the area.
86. Public objection to the development includes objection to the loss of the sections of wall, piers and railings but also wider concerns relating to the cumulative harm with the HQ proposal, a further urbanising impact upon the historic edge to the historic core of the City and approaches to the World Heritage Site (WHS), visual harm caused by the parking of vehicles and lighting and a harmful impact upon the caretakers lodge caused by the introduction of the access.
87. Officers would highlight that the application site is previously developed land. The siting of vehicles on the sports courts in itself would not require planning permission. The extent of operational development proposed in the form of new extents of hardsurfacing, retaining wall and lighting columns is, officers consider, limited and impacts localised. It should also be noted that 13 existing redundant lighting columns are proposed to be removed and replaced with 4. The degree of lighting to result from 4 lighting columns would be limited. The mesh surrounds to the sports courts are also proposed to be removed as well.
88. The application proposes as part of the provision of the new footpath and access that existing trees would be retained with tree friendly construction techniques implemented as necessary to which Landscape raise no objections. It should be noted that separately under application 19/01709/TCA some pruning works trees around the sports court has been applied for. Furthermore, a sycamore at the northern extremity of the site already has consent to be felled as part of the Council's HQ redevelopment proposals.
89. In assessing an application, regard must be had to the statutory duty imposed on the Local Planning Authority at section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, section 66 imposes a statutory duty that, when considering whether to grant planning permission for a development that affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses. If harm is found this must be given considerable importance and weight by the decision-maker.
90. Officers conclude that the development would not result in harmful impacts upon the setting of the WHS (or the individually listed buildings contained therein). No harmful impact upon Durham (City Centre) Conservation Area by reason of an urbanising impact would result and the development would not contribute to any significant degree to any cumulative visual impact with the Council's HQ proposal.

91. CDLP Policy E22 highlights the contribution that boundary walls can make to the historic fabric of a conservation area and advises that demolition of buildings which contribute to the character of the area will not be permitted.
92. Paragraph 201 of the NPPF advises that the loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or WHS should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area.
93. The proposal would not result in the demolition of the whole of the wall, railing and pier enclosure to the DSFC but a section of it. Design and Conservation state that the appreciation of the former County School and associated boundary as a set piece is most notable when viewed on Providence Row (which would remain unaffected by the proposals) rather than the section along Freemans Place. The conclusions of Design and Conservation are that the harm resulting from the loss of the wall would be limited to its loss as a non-designated heritage asset. It is concluded that Durham (City Centre) Conservation Area as a designated heritage asset would not be harmed and its character and appearance preserved as a result.
94. The NPPF advises at paragraph 197 that when a proposal would affect a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. CDLP Policy E21 also advises in regards to impacts upon a non-designated heritage asset. The policy seeks to minimise adverse impacts on features of historic interest and encourage their retention and repair and is considered consistent with the NPPF advice.
95. Overall, with no harm identified to occur to the WHS, listed buildings or the Conservation Area the proposals are considered to accord with CDLP Policies E3, E6, E22 and E26. Harm to a non-designated heritage asset would occur and as a result the proposal would be in a degree of conflict with Policy E21 whilst the NPPF advises that harm to a non-designated heritage asset is considered in the planning balance. This planning balance is undertaken in the conclusions of this report. However, aligned with the advice of Design and Conservation it should be noted that the whole of the non-designated heritage asset is not being lost through this development only a section of it and furthermore not the section where it is most significantly appreciated.
96. Archaeology have confirmed that there are no archaeological implications with no objections and no requirement for conditions with the proposal considered compliant with CDLP Policy E24 (partially consistent with the NPPF) as a result
97. The impacts of the development in more general terms are considered acceptable including having regards to potential impacts upon trees in accordance with CDLP Policies E10, E14, Q3, Q4 and Q5 all of which are considered consistent with the content of the NPPF.

Ecology

98. The application is accompanied by an ecological appraisal. The appraisal relates to the DSFC site as a whole and was devised to support previous planning proposals at the site. The appraisal is dated from July 2017.
99. Ecology have advised that despite its age and its original division to support a differing proposal it nevertheless does provide an ecological appraisal of the site and context. The report found that trees around the site were low to negligible risk for bats but found

them suitable for breeding birds. Trees have been checked again by DCC Ecology earlier this year and found them to still be low/negligible risk for bats.

100. As a result, Ecology raise no objections to the proposed development and impacts upon protected species. Originally submitted comments advised that lighting should be designed to direct light onto the car parking area, to minimise light spill onto the surrounding habitats. Further information has been supplied to demonstrate this to which ecology have raised no objections.
101. It is considered that there would be no interference with any European Protected Species (EPS) and therefore there is no requirement to assess the likelihood of an EPS license being granted set against the derogation test requirements of the Habitats Directive brought into effect by the Conservation of Habitats and Species Regulations 2017.
102. No biodiversity/habitat loss would occur on the site as a result of the proposals and no impacts upon locally or statutory designated ecology sites would occur.
103. As a result, the proposal is considered in accordance with CDLP Policies E16 and E18 (consistent with the NPPF) and Part 16 of the NPPF.

Flood Risk and drainage

104. The application site is principally located within Flood Zone 3a which is land identified as having a 1 in 100 year or greater annual probability of river flooding. Land in Flood Zone 3a is land which is therefore at a higher risk and probability of flooding.
105. The thrust of national guidance with the NPPF and PPG is where possible to steer new development to areas with the lowest risk of flooding. A sequential test, the purpose of which is to assess whether development can be located on an alternative site less prone to flooding, is a frequent requirement on development proposals. However, a sequential test is not required for minor development proposals with limited operational development occurring as is the case here. Similarly, in some instances a further exception test has to be passed for developments to be acceptable in areas prone to flooding but again is not applicable in this instance.
106. A site specific Flood Risk Assessment (FRA) is still a requirement, however, for all development proposals on land in Flood Zone 3a. An FRA accompanies the application, which has been revised during the course of determination of the application outlining that surface waters will be discharged with run-off restricted to the greenfield run-off rate. It is advised that a car park closure procedure will be implemented in a flood event and that flood risk warning signs will be erected.
107. Topographical information accompanying the planning application highlights that changes in site levels as a result of the development proposals are very minor essentially restricted to the provision of new hard surfaces and provision of a retaining wall. The FRA quantifies any loss of flood plain to be 12m³ which would be compensated for through the provision of the rain garden/drainage system.
108. The Environment Agency originally objected to the submitted FRA considering that it contained inadequate information in regards to flood risk issues. Subsequent Environment Agency comments have confirmed that there would be no objection provided that the loss of 12m³ of floodplain is adequately compensated for via an alternative scheme. The Environment Agency confirm a means to achieve this would include land lowering of another land parcel to the equivalent volume. A condition to ensure this is therefore necessary in the event of any approval.

109. As a result no objections to the development are raised on flood risk or drainage grounds with the proposals considered to comply with CDLP Policy U10 (partially consistent with the NPPF) and Part 14 of the NPPF.

Other Issues

110. Environment, Health and Consumer Protection have raised no objections to the development and confirmed that there is no requirement for conditions having regards to CDLP Policies U11 and U12 (NPPF consistent) and Part 15 of the NPPF.

CONCLUSION

111. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

112. The NPPF advises that weight to local plan/development plan policies adopted prior to the publication of the NPPF (in its revised form) should be attributed according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Equally, however, where evidence which has informed the content of the policy is out of date this can also be a reason to conclude the policy is out of date.

113. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development and this is detailed at paragraph 11.

114. In this instance policies within the CDLP most important for determining the application are out-of-date. As a result paragraph 11(d) of the NPPF applies which states;

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 this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; 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.

115. In respects to limb i, NPPF policies which protect assets of particular importance apply in this case in terms of policies relevant to flood risk contained within Part 14. The development is considered to comply with the policies with no increase in flood risk caused by the development proposals subject to the provision of the necessary compensatory floodplain storage.

116. In terms of limb ii there is the requirement to consider whether any adverse impacts overall would significantly and demonstrably outweigh the benefits.

117. The identified adverse impact of the proposal would result from the partial loss of a non-designated heritage asset in the form of a section of wall, piers and railings. The stretch of the enclosure on Providence Row would remain and the degree of harm as a result

of the partial demolition is considered limited. The benefits of the scheme would involve the facilitating a permanent access solution to provide parking for DSFC. Some benefit would derive from the localised demolition of more unsightly enclosures and redundant lighting columns which it is detailed in the application would occur in phases with all the features proposed for removal by the summer of 2020.

118. Overall, it is considered that the identified adverse impacts from the development would not significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.
119. As a result, and having regard to the content of the CDLP, and on the balance of all material planning considerations, including comments raised in the public consultation exercise, it is considered that the proposals are acceptable.

RECOMMENDATION

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

Time Full

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.

Plans

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

Plans:

Location Plan (0/A) received 24 June 2019
Retaining Wall Detail received 24 June 2019
Proposed Levels received 24 June 2019
Tennis Court Lighting Site Clearance TP0147 received 24 May 2019
Proposed Car Park Lighting TP0148 received 24 May 2019
Typical Sections Engineering Layout 1360064-DCC-HE-PA-06 received 24 May 2019
Car Park Access Road Long Section 1360064-DCC-HE-PA-05 received 24 May 2019
Typical Sections Site Clearance 1360064-DCC-HE-PA-04 received 24 May 2019
Engineering Layout received 7 August 2019
Site Clearance received 7 August 2019

Documents:

Flood Risk Assessment received 24 June 2019
Air Quality Assessment by SLR received 24 June 2019
Durham Sixth Form Centre Tree Survey received 24 May 2019

Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies E3, E6, E10, E14, E16, E18, E21, E22, E23, T1, T11, T21, Q1, Q2, Q3, Q4, Q5, U5 and U10 of the City of Durham Local and Parts 2, 4, 8, 11, 12, 14, 15 and 16 of the NPPF.

Tree Protection

3. Trees must be protected from the development works in accordance with the advice contained within the submitted Durham Sixth Form Centre Tree Survey and in accordance with the following requirements:
 - No development shall take place until trees on site have been protected from the development works with protective fencing installed in accordance with BS 5837:2012 specification and the protection retained until the cessation of the development works
 - Any works undertaken within the root protection areas of the trees must be undertaken via hand dug methods only
 - All exposed roots must be clean cut and immediately covered in hessian sacking which must be kept moist/wet for the duration of exposure. Backfilling with clean top soil must thereafter occur as soon as possible

Reason: In the interests of preservation of trees on site having regards to Policy E14 of the City of Durham Local Plan 2004 and Part 15 of the NPPF.

Barrier

4. No site access barrier shall be installed until full details of its precise design, location and means of operation has first been submitted to and then approved in writing by the Local Planning Authority. Thereafter the access barrier must be installed and operated in accordance with the approved details.

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

Compensatory Flood Storage

5. Prior to the completion of the works associated with the provision of the vehicular access a scheme of compensatory floodplain storage so as to compensate for the loss of 12m³ of such storage must be submitted to the Local Planning Authority. The scheme must include details of the timescales for the provision of the compensatory storage. The compensatory flood storage scheme must thereafter be completed in accordance with agreed details.

Reason: In the interests of minimising the risks of flooding having regards to City of Durham Local Plan Policy U10 and Part 14 of the NPPF.

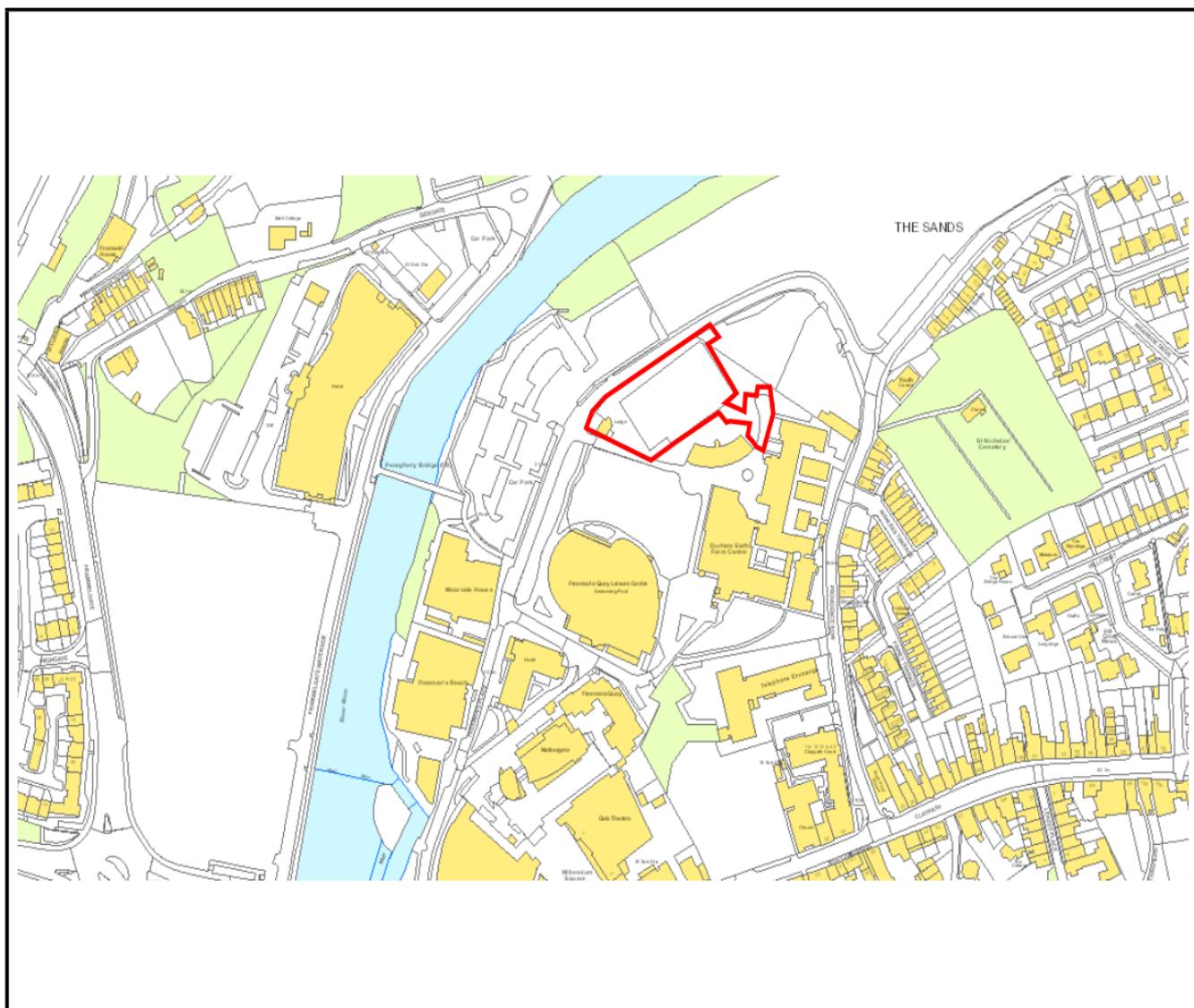
STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans supporting documents

- City of Durham Local Plan 2004
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- Statutory, internal and public consultation responses



 <p>Durham County Council Planning Services</p>	<p>DM/19/01711/FPA</p> <p>Demolition of sections of enclosure and provision of access in association with use of a car park and associated works</p> <p>Durham Sixth Form Centre</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>Comments</p>	
	<p>Date September 2019</p>	<p>Scale Not to Scale</p>