

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/19/02667/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Construction of a new 2 and 3 Storey Extra Care building (falling within Class C2) providing 71 no. Apartments, associated access and hard and soft landscaping (amended description)
<b>NAME OF APPLICANT:</b>	Mr Andrew Mayfield Galliford Try Partnerships North East, 2 Esh Plaza, Sir Bobby Robson Way, Great Park, Newcastle Upon Tyne NE13 9BA
<b>ADDRESS:</b>	Land to The North Of Robson Avenue, Peterlee
<b>ELECTORAL DIVISION:</b>	Peterlee East
<b>CASE OFFICER:</b>	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. This application site is located within the settlement boundary of Peterlee and the Electoral Division of Peterlee East. The site measures approximately 0.7 hectares in area and is located to the north of Robson Avenue. It is previously developed and located centrally within the town and an established housing estate on the site of the former Eden Community Primary School. Since the school was demolished in 2008 the land has remained vacant with the hardstanding still in situ in places and is framed by areas of tree and shrub planting (some of which are protected through Tree Preservation Order) and former playing fields.
2. Residential streets bound the site to the east and west at Bailey Rise and Robson Avenue respectively and by a small area of open space to the north within which there sits a former community centre which has since been granted planning permission for use as a hotel. To the south of the site planning permission was granted in 2019 for the erection of 67 dwellings which has been implemented and construction is ongoing.
3. There are numerous community facilities nearby including shops, schools, healthcare services and public transport provision and the site is accessed via the historic arrangement direct from Robson Avenue.

## The Proposal

4. Full planning permission is sought for the erection of a 71 unit Extra Care residential facility on land to the north of Robson Avenue, Peterlee with associated access and hard and soft landscaping.
5. The development proposes a building of 3 storey height with a dual pitched roof set within soft and hard landscaping. Submitted plans show a building of predominantly linear layout that would occupy a north/south orientation with two perpendicular 'wings' extending east and west from the main thrust of the building. External materials would comprise facing brick, render and weatherboard cladding to the walls and concrete interlocking tiles to the roof with dark grey interlocking UPVC windows and doors. Boundary treatment would comprise the retention of the existing 2 metres high palisade security fencing which is understood to have served the previous use although this would be supplemented by timber fencing internally as part of the proposals.
6. The development would comprise 71 No. self-contained units spread across all three floors although at ground floor these would be supplemented by a number of communal areas which include activity/recreational areas, a kitchen and dining area, hair salon and laundry. Staff facilities would also be provided at this level and would include WC, offices and a staff room.
7. Access would be taken via the existing arrangement with Robson Avenue with some associated improvement works.
8. It is understood that the facility would be operated by Housing 21 who manage a number of similar facilities within the Country and Durham Care Academy would hold nomination rights for tenants.
9. This application is being reported to planning committee as it is classed as a major application.

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## PLANNING HISTORY

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10. There is no planning history relevant to the current application site.

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## PLANNING POLICY

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### NATIONAL POLICY

11. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
12. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;

13. *NPPF Part 2 Achieving Sustainable Development* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future
14. *NPPF Part 5 Delivering a Wide Choice of High Quality Homes*. The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
15. *NPPF Part 6 Building a Strong, Competitive Economy*: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
16. *NPPF Part 8 Promoting Healthy Communities*. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted
17. *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.
18. *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.
19. *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.
20. *NPPF Part 15 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

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

21. The following policies of the Easington District Local Plan (EDLP) are considered relevant to the determination of this application.
22. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

23. Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
24. Policy 14 - seeks to protect Special Areas of Conservation from development which would give rise to an adverse impact, either directly or indirectly.
25. Policy 18 - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
26. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
27. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
28. Policy 37 - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).
29. Policy 66 - Developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site.
30. Policy 67 - Housing development will be approved on previously developed land within settlement boundaries of established towns or villages provided the proposal is of appropriate scale and character and does not conflict with other policies in the plan.
31. Policy 71 – Rest Homes, Nursing Homes and Sheltered Accommodation - New residential institutions (class C2) and sheltered accommodation will be approved within the defined settlement boundaries of Peterlee provided the proposal accords with the provisions of policies 35-37.

#### **EMERGING COUNTY DURHAM PLAN:**

##### **The County Durham Plan**

32. 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 and the EIP is currently proceeding. The CDP was submitted to the Planning Inspectorate on 28 June 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.

*most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

33. The Highway Authority raises no objection to the application subject to the inclusion of a planning informative regarding the works to the access which would be subject to a Section 278 agreement.
34. Northumbrian Water Limited offer no objection to the application subject to a planning condition which requires the implementation of the development in accordance with the submitted drainage strategy.
35. Drainage and Coastal Protection Section raises no objection to the application after the applicant clarified discharge rates from the development and subject to a planning condition which ensures the development is carried out in accordance with the submitted surface water disposal detail.

### **INTERNAL CONSULTEE RESPONSES:**

36. Spatial Policy Section confirms that the planning balance test contained in paragraph 11 of the NPPF is engaged.
37. Landscape Section raises no objection to the application after the scheme was amended to improve the quality of internal landscaping and introduce Juliette style balconies at points across the development subject to a planning condition requiring the submission and agreement of a landscape plan detailing precise species mix.
38. Arborist has no objections to the application subject to the development being carried out in accordance with the requirements of the submitted Tree Protection Plan and AIA.
39. Environmental Health Section (Noise Action Team) has no objection to the application subject to the inclusion of a planning condition which requires the submission and agreement of precise detail of sound attenuation measures to be incorporated into the construction of the building.
40. Contaminated Land Section has no objection to the application subject to the inclusion of the standard planning condition requiring the submission and agreement of remediation measures and the inclusion of a standard planning informative with regard to measures to be taken should contamination be found during the course of the development.
41. Design and Conservation Section raises no objection to the application after the scheme was amended to reflect design improvements including the introduction of Juliette style balconies at points across the development.
42. Archaeology Section raises no objection to the application.
43. Ecology Section originally noted that the development is located within the 6km HRA buffer but that given the proposal relates to a residential institution, in the event that the LPA is satisfied that the nature of residents could be controlled to ensure that there would be no impact upon the Heritage Coast then no commuted sum would be required. Should this not be the case then a commuted sum of £53,560.31 would be required. In addition, a commuted sum of £16,560 to offset biodiversity loss as a result of the development is confirmed.

## **NON STATUTORY RESPONSES:**

44. NHS has requested a financial contribution of £18,480 for use towards healthcare provision in the area.

## **PUBLIC RESPONSES:**

45. The application has been publicised by way of site notice, press notice and notification letters sent to neighbouring properties. No representations have been received.

## **APPLICANTS STATEMENT:**

46. Housing 21 are proposing to develop a 71 apartment extra care scheme at Robson Avenue, Peterlee. All apartments will be for rent set at affordable levels, with 100% nominations afforded to the Council. Housing 21 provide an integrated landlord, housing management, and care provider service – they consider the integrated service model provides the best service and outcomes for residents, as well as the most efficient funding model for local authority partners.
47. Housing 21 are by far the largest provider of affordable extra care in England, with more than 140 schemes currently in operation. They work with over 150 councils and deliver 40,000 hours of care to over 5000 users each week. In the north of England, their services have a 100% good rating with the Care Quality Commission.
48. Extra care housing offers a real 21st Century alternative to residential care where couples can stay together. Within the extra care scheme there will be a mix of 1 and 2 bed apartments, all level access with specially designed motion spot bathrooms. The scheme will have 2 lifts, both suitable for wheelchair access, a communal lounge and restaurant, hair salon, assisted bathing facilities, and a specially landscaped accessible garden, with opportunities for residents to tend their own allotment. This is all set within an independent living scheme, with everyone having their own front door and privacy as well as access to communal facilities. Optional tailored care packages are available which enable people to live a life of choice at a time in their lives when their needs and circumstances change.
49. Our schemes are outward facing and welcome the local community in to use the communal facilities and also to contribute to a thriving community. The scheme will also provide real and meaningful employment opportunities in care and managerial roles, as well as potential new business start-ups for restaurant operators and hairdressers. There will be approximately 24 new fulltime jobs created directly by this development. Additional services will be outsourced locally to cover building maintenance, gardening, catering etc.
50. An integral part of the extra care offer is the provision of a staff service 24/7 for safety, security, first responder, step-up care after a hospital admission, short term provision of additional planned care (e.g. where someone has a short term medication administration requirement, or additional mobility support needs for a period of time). There is an increasing body of evidence to suggest the health of residents in Extra care schemes improves, resulting in less doctor and hospital admissions and ultimately less demand on local health facilities. Allied to time and cost savings in providing care in one location, this can only be of benefit to both the town and the Council.

51. In summary, this application will provide investment into the area and will be a valuable asset to the community, providing much needed capacity for housing an ever-growing older population. We therefore urge you approve this application.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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

### **Principle of Development**

53. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Easington District Local Plan (EDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that the degree of weight to be afforded to existing Local Plan policies will depend upon the degree of consistency with the NPPF.
54. The Easington Local Plan (EDLP) was adopted in 2004 and was intended to cover the period to 2006. The NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired.
55. On this basis, given the age of the EDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
56. Policy 67 of the EDLP relates to windfall housing development within settlement limits stating that housing development will be approved on previously developed sites within settlement boundaries of established towns and villages provided the proposal is appropriate in scale and character and does not conflict with specific policies relating to the settlement or the general policies of the plan. However, the out of date evidence base which underpins this policy means that it must be regarded as out of date for the purposes of paragraph 11 of the NPPF and as a consequence, can be afforded only limited weight.

57. As there are no policies in the development plan against which the principle of development can be determined, regard must therefore be had to Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);

- approving development proposals that accord with the development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for the determining the application are out-of-date, granting planning 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 impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

58. There are no policies in the NPPF that protect areas or assets of particular importance and which would provide a clear reason for refusal, therefore the acceptability of the development largely rests on planning balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits in paragraph 11(d)(ii).

#### Five year Housing Land Supply

59. Paragraph 73 of the updated NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

60. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

61. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such an annual position statement in place at the time of the appeal. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.



62. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard method for calculating local housing need and as the emerging CDP is aligned with the figure derived from the standardised methodology (1,368dpa), a supply in excess of 6 years supply of deliverable housing can be demonstrated when measured against this

#### Locational Sustainability of the Site

63. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. In this respect, it is noted that Peterlee is a large town with access to a good range of shops, services, employment and education opportunities, and is well served by public transport. Consequently, the site is considered to represent a sustainable location capable of supporting additional residential development.

#### Impact upon Residential Amenity

64. Policy 35 of the EDLP states that layout and design of new development will be required to have no serious adverse effect on the amenity of people living and working in the vicinity of the development site and on adjacent land uses. This is considered to display a broad level of accordance with the aims of paragraph 123 of the NPPF which seeks to control the impact of a proposal upon residential amenity including through the imposition of planning conditions. This policy is considered NPPF compliant particularly with regard to paragraph 180 of the NPPF which states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
65. The nearest residential properties would be those located to the east and west of the site at Robson Avenue and Bailey Rise respectively. The nearest gable elevation of the former would be approximately 13.5 metres from the eastern elevation of the proposed building and the rear elevations of properties at Bailey Rise would be located approximately 19.5 metres from its western elevation. The applicant has amended the scheme since original submission to remove windows to habitable rooms within these elevations in order to meet minimum privacy distances, and has also provided a shadow analysis model which demonstrates that there would not be any adverse impact to adjacent occupiers from overshadowing or loss of light. Whilst the building would be of 3 storey height across this part of the site it is not considered that there would be any unacceptable impact in terms of overbearing given the distances achieved and noting that historically built development was provided across this part of the site through a previous use. It is also of note that there have been no representations received from surrounding residents in objection to the scheme in this regard.
66. The Council's Environmental Health Officer has been consulted and offers no objection to the application but notes the presence of a neighbouring property to the north which benefits from planning permission for use as a hotel and for which the LPA is currently considering a planning application for an extension to provide a function room. With this in mind there is a requirement to provide appropriate sound attenuation to those units with windows to the northern elevation that serve habitable rooms, along with a construction management plan detailing working practices during the construction phase. The submission and agreement of proposed mitigation could be secured through planning condition as could implementation of the construction management plan.

67. Subject to the inclusion of planning conditions in this regard, the development would not be considered to have any significant adverse impact in relation to residential amenity in accordance with the aims of policy 35 of the EDLP and paragraph 180 of the NPPF.

#### Landscape and Visual Amenity including impact upon existing trees

68. Policy 35 of the EDLP requires new development to reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials and provide appropriate landscape features and screening, where required. This is considered to display a broad level of accordance and compliance with the aims of the NPPF at paragraph 124 which states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
69. The development proposes the erection of a freestanding 71 unit Extra Care Facility spread across three storeys and presenting a principal elevation to the south onto Robson Avenue. It includes hard landscaping to the southern elevation comprising a vehicular access from Robson Avenue and a 36 space car park and would be framed by an area of soft landscaping the main thrust of which would be situated to the north west of the site. Notwithstanding the above the site is subject to a Tree Preservation Order made in 1948 although it is noted that this relates only to the northern part of the site.
70. In terms of scale and massing the proposed building despite being of 3 storey height would be set within considerable grounds and set back sufficient distance from Robson Avenue itself to ensure that it would assimilate appropriately into the existing streetscene. External materials would comprise a mix of red facing brick, render and weatherboard cladding with interlocking concrete tiles to the roof (the precise details of all external materials have been provided and are considered acceptable).
71. The design reflects amendments to the original submission and now includes decorative elements such as Juliette balconies provided to add visual interest and break up the massing of the most prominent principal elevation. Improvements have also been secured to soft landscaping to the satisfaction of the Council's Landscape Section. Use of the materials stated could be secured through planning condition.
72. As noted a Tree Preservation Order (TPO) exists across the northern part of the site and whilst the proposal would require the removal of a number of existing trees the specimens affected would be those to the southern part of the site and the applicant has sought to retain the most notable specimens where possible. In this respect the scheme has been amended to ensure that none of the trees which are subject to the TPO would be adversely affected. The Council's Arborist initially raised some concern at the loss of a Grey Alder to the south of the site although it is understood that it has not been possible to retain this specimen due to drainage requirements. However, the scheme has been amended to retain T18 which is subject to protection through TPO subject to some pruning which has been agreed with the Council's Arborist and can be secured through planning condition.
73. Where the loss of other trees is proposed, (such as along the boundary with Robson Avenue), replacements will be planted and whilst the visual benefit of these replacements maybe limited until they become established, this would nevertheless satisfactorily offset any adverse impact in this regard. Notwithstanding the above the tree protection measures detailed in the Tree Protection Plan should be installed prior to the commencement of development and retained for the duration of the construction phase and this could be secured through planning condition.

74. The site previously hosted Eden Community School and although the buildings have since been removed from the site much of the hardstanding remains. As such the proposal for the site represents its positive redevelopment and has associated visual amenity benefits as a consequence.
75. In light of the above, the redevelopment of the site would sit acceptably in the wider streetscene and would not appear as incongruent addition in accordance with the aims of policy 35 and 71 of the EDLP and paragraph 124 of the NPPF.

#### Parking, Access and Highway Safety

76. Policies 36 and 37 of the EDLP requires new development to provide safe and adequate access and sufficient parking capable of serving the amount and nature of traffic to be generated which is an approach considered consistent with paragraph 108 of the NPPF in respect of achieving safe and suitable access to the site.
77. The proposal would take an access directly from Robson Avenue to the south which would occupy a position broadly similar to that which served the previous use. This would serve an area of car parking across the south western part of the site comprising a total of 36 car parking spaces (including 4 disabled spaces) and subject to a one-way circulation system.
78. The Highway Authority has been consulted and confirms that the number of spaces provided meets the requirements of the Council's Parking Standards and that the proposed means of access is acceptable, and as such offers no objection to the application. However, a condition is advised which restricts the use of the building to that falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987, as the parking requirements for Class C3 use are likely to be greater.
79. Whilst a condition could be included in this regard it is considered that sufficient control exists given that any change of use of the development from C2 to C3 would require planning permission and the impact of any such proposal in terms of parking, access and highway safety would be a material consideration in determination of any such application.
80. Consequently, the development is considered to accord with the requirements of policy 36 of the EDLP and paragraph 108 of the NPPF.

#### Ecology, Biodiversity and Protected Species

81. Policies 14 and 15 of the EDLP seek to protect Special Areas of Conservation and Sites of Special Scientific Interest respectively which is an approach that is considered to display a broad level of accordance with Part 15 of the NPPF in that it seeks to ensure that new development protects and mitigates harm to biodiversity interests.
82. Whilst there are no structures of note still present within the application site from the former use several existing trees are identified for removal and the site also lies within the 6km buffer of the Heritage Coast. As such the application is supported by Habitats Regulations Screening and the Preliminary Ecological Appraisal reports completed by Dendra Consulting. The former concludes no likely significant effect on the coastal European Protected Sites and 'screens' it out from requiring further Appropriate Assessment. However, this is at odds with the findings of the Council's own HRA of residential development along the coast. The Durham County Council HRA and the subsequent coastal avoidance and mitigation strategy have been produced in full consultation with Natural England who support the conclusion and the measures to be implemented to minimise negative effects on the coastal European Protected sites as a result of increased recreational pressure.

83. Consequently, the Council's Ecologist considers that in order to mitigate the impact of the proposal upon the Heritage Coast a commuted sum contribution of £53,560.31 is required to be used in off-site mitigation schemes calculated at £756.61 per residential unit. Specifically, the contribution would be used towards CAMMs Capital Item 3(5) High Tide Roosts, specifically Nose's Point fencing and public access management.
84. In response the applicant has advised that Clauses 3.1.4 and 3.1.5 of the HRA developer guidance appear relevant and relate to residential institutions stating that where it can be demonstrated that there would be no impact upon the coast then mitigation would not be required. Specifically, the applicant advises that as residents would be elderly and subject to care needs which would prohibit travel to and use of the coast to walk pets, then there would be no adverse impact.
85. The Council's Ecology Section has responded to this point and noted that in the event that entry age and/or the end user can be effectively controlled through planning condition to ensure residents fall within the 70s and 80's range and have some degree of medical care requirement as claimed, then the exemption clauses stated would apply and the HRA contribution not required.
86. It is considered that any planning condition which sought to control restriction upon pet ownership or the care needs of residents would not meet the tests required of all planning conditions with regard to reasonableness or enforceability, and as such the full contribution as stated would be required to mitigate impact upon the Heritage Coast as detailed above. Whilst County Durham Care Academy would have nomination rights for residents (which would offer a degree of control in this regard) it is nevertheless noted that in instances where full capacity of the facility could not be achieved the applicant would be at liberty to fill those units not occupied, and over which Durham Care Academy would have no control.
87. With regard to biodiversity paragraph 175 of the NPPF requires that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. The Preliminary Ecological Appraisal submitted in support of the application identifies that there would be the loss of habitats to facilitate the development and in accordance with the requirements of the NPPF, and using the appropriate Biodiversity Calculator, the commuted sum of £16,560.00 would therefore be required to off-set biodiversity loss secured via a s106 Agreement.
88. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
89. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and where the proposed development is likely to result in an interference with an EPS must consider these tests when deciding whether to grant permission. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

90. The supporting Preliminary Ecological Appraisal concludes that the site offers very low potential for protected species and consequently, it is not considered that the proposed development would have an adverse impact on protected species or their habitats and therefore there is no need to consider whether an EPS licence would be granted. The Council's Ecologist agrees with these conclusions and as such the development is considered to accord with part 15 of the NPPF in this regard.
91. Whilst there would be some net loss to biodiversity this could not be offset by off-site mitigation and the applicant has agreed to provide a commuted sum of £16,560 in this regard for use at a scheme identified in Durham County Council's Local Biodiversity Compensation Strategy Document. Impact upon the Heritage Coast could be appropriately mitigated through a commuted sum of £53,560.31. The development would therefore accord with policy 18 of the EDLP and paragraph 175 of the NPPF.

#### Land Contamination

92. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
93. The proposal is supported by a Phase 2 Geo-Environmental Appraisal, Ground Gas Assessment and a Remediation Strategy Report which identifies remediation to mitigate against the risk to the development from previous contamination. As such the Council's Contaminated Land Section offer no objection to the application subject to the inclusion of a planning condition which requires the submission and agreement of a verification report upon completion of the remediation works in order to demonstrate compliance.
94. Therefore, subject to the inclusion of planning condition in this regard the development is considered to accord with the aims of paragraph 178 of the NPPF.

#### Drainage

95. The application proposes the disposal of both foul and surface water to existing mains connection. While NWL and the Council's Drainage Section raise no fundamental objection to this arrangement both advise the inclusion of a planning condition to ensure the development is carried out in accordance with the submitted drainage strategy.
96. Subject to the inclusion of a planning condition to ensure the development is carried out in accordance with the submitted Drainage Strategy the application is considered to accord with the requirements of policy 1 of the EDLP.

#### Planning Obligations and Section 106 Requirements

97. Saved policy 66 of the EDLP states that developers will be required to make adequate provision for outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to provide provision at the development site. On this basis the applicant has agreed to make a financial contribution of £10,000 towards the provision or improvement of offsite allotment space within the electoral division in line with the requirements of the Council's Open Space Needs Assessment.

98. As already noted elsewhere in this report, contributions of £53,560.31 and £16,560 are required for use in mitigating the impact upon the Heritage Coast and off-site ecology and biodiversity improvements within the locality in accordance with the Council's Guidance to Developer Contributions and to which the applicant has agreed.
99. Paragraph 92 of NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. This provides policy justification to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal. The NHS Darlington and Stockton-on-Tees Clinical Commissioning Group has confirmed that in order to mitigate the impact of the development upon existing healthcare provision within the Peterlee area there is a requirement for a financial contribution of £18,480.
100. It is considered that securing the above contributions by S106 obligation would be compliant with the relevant tests set out in the CIL Regs.

#### Planning Balance

101. As the relevant policies of the EDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged which requires planning permission to be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits. In this regard a summary of the benefits and adverse impacts of the proposal are considered below;

#### *Benefits*

102. The development would assist in maintaining housing land supply and add to the range and variety of housing in accordance with paragraph 59 of the NPPF. Whilst the benefit to housing land supply could be considered limited in the context of the Council's ability to demonstrate a 5 year supply of housing land, and as such less weight should be attached to this as a benefit than if a sort fall in supply existed, there would nevertheless be notable benefit in terms of an increase to the range and variety of provision. In this regard Durham County Care Academy have identified demand for extra care provision in the Peterlee area.
103. The redevelopment of the site would present some benefit to the visual amenity of the surrounding area through the reintroduction of a positive use at a previously developed site which has been vacant for some time.
104. To a limited degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area supporting existing facilities in Peterlee. As such this can be afforded some limited weight.

#### *Adverse Impacts*

105. In all other respects the applicant has demonstrated that there would not be any adverse impacts as a result of the development subject to suitable mitigation through appropriate planning conditions.

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## CONCLUSION

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106. The acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 11d of the NPPF. Therefore, in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.
107. The site occupies a sustainable location within Peterlee which is served by a good range of shops, services, employment and education opportunities and benefits from good local transport links. The introduction of additional extra care facility in this location would help support these facilities and service an identified need for housing development of this type. As such it is considered acceptable in principle being a sustainable development in accordance with guidance contained within the NPPF.
108. The proposal presents some limited benefits in terms of a boost to housing supply and the local economy both in the short term, through the creation of construction jobs, and more long term through increased spending in the local economy from future residents. There would also be some benefit in terms of visual amenity through the redevelopment of a previously developed and vacant site.
109. The development could be satisfactorily accommodated at the site by reason of scale, mass, layout, design and materials and there would be no adverse impact in terms of residential amenity, visual amenity, highway safety, ecology, drainage or land contamination in accordance with the aims of policies 1, 3, 14, 18, 35, 36, 37, 66, 67 and 71 of the EDLP and paragraphs 11, 108, 124, 178 and 180 of the NPPF.
110. The scheme would therefore comply with all relevant saved local plan policy, general aims of the NPPF and in the context of paragraph 11, there are no adverse impacts that would significantly and demonstrably outweigh the benefits and is therefore recommended for approval.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions and to the completion of a Section 106 Legal Agreement to secure the provision of:

- i) The sum of £53,560.31 for use towards CAMMs Capital Item 3(5) High Tide Roosts, specifically Nose's Point fencing and public access management.
  - ii) The sum of £10,000 to be used in the improvement of existing or the provision of new allotment facilities within the Peterlee East Ward.
  - iii) The sum of £16,560 to be used by the Council towards biodiversity enhancements in line with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy document.
  - iv) The sum of £18,480 for improving access to healthcare provision in the vicinity of the development.
1. The development should not be begun later than the expiration of three years from the date of this permission.

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

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

Drawing No.	Description	Date Received
00-50	Location Plan	16/08/2019
00-54	Proposed Roof Plan	16/08/2019
00-53-P1	Proposed Floor Plans	11/10/2019
00-55-P2	Proposed Elevations	22/11/2019
00-52-P2	Proposed Site Layout	22/11/2019
A-0001-P1	Materials Schedule	19/11/2019
	FRA and Drainage Strategy	25/11/2019

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

3. External surfaces of the development hereby approved shall comprise only those listed in the materials schedule entitled '18042 – MATERIALS SCHEDULE REVISION P1' from SPA Architects received 19 November 2019.

*Reason: To protect the character and appearance of the existing streetscene in accordance with the aims of policy 35 of the Easington District Local Plan and paragraph 124 of the NPPF.*

4. The development hereby approved shall only be carried out wholly in accordance with the Construction Management Plan entitled 'Robson Avenue, Peterlee, Site Management Methodology' received 26 November 2019.

*Reason: To protect the character and appearance of the existing streetscene in accordance with the aims of policy 35 of the Easington District Local Plan and paragraph 124 of the NPPF.*

5. Prior to the first occupation of the development hereby approved full details of all means of enclosure shall be submitted to and agreed in writing with the Local Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

*Reason: To protect the character and appearance of the surrounding area in accordance with the aims of policy 35 of the Easington District Local Plan and paragraph 124 of the NPPF.*

6. No development shall take place at the site above damp proof course (DPC) level until a scheme to attenuate the impact of noise from the hotel to the north of the site upon those properties with windows in the north facing elevation of the development has been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed detail.

*Reason: To protect residential amenity in accordance with the aims of policy 35 of the Easington District Local Plan and paragraph 180 of the NPPF.*

7. No development shall take place at the site above damp proof course (DPC) level until a landscape plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.



Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

Details of hard and 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.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

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

The local planning authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

*Reason: To protect the landscape and visual amenity of the surrounding area in accordance with the aims of policy 35 of the Easington District Local Plan and paragraph 124 of the NPPF.*

8. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

*Reason: To protect existing trees and the character and appearance of the surrounding area in accordance with the aims of policy 35 of the Easington District Local Plan.*

9. No construction work shall take place, nor any site cabins, materials or machinery be brought onto the site until all trees and hedges, as indicated on the Tree Protection Plan contained at Appendix 1 of the AIA produced by Dendra and received 8 November 2019 are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2012.

No operations whatsoever, including alterations of ground levels, storage of any materials within protective fences, work to affect any tree (including the removal of limbs or other tree work) or the excavation of underground trenches or service runs within root protection areas as defined on the Tree Protection Plan, shall take place, other than those works relating to T18 as permitted through condition 10 of this permission.

*Reason: To protect existing trees in accordance with the requirements of policy 35 of the Easington District Local Plan and paragraph 175 of the NPPF.*

10. No development shall commence until full details of all tree works proposed to T18 as shown on the AIA submitted by Dendra Consulting received 8 November 2019 have been submitted to and agreed in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the agreed detail.

*Reason: To protect existing trees in accordance with the requirements of policy 35 of the Easington District Local Plan and paragraph 175 of the NPPF.*

11. Development shall be carried out in full accordance with the drainage scheme contained within the submitted document entitled 'Flood Risk Assessment and Drainage Strategy' dated May 2019. The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 0402 and ensure that surface water discharges to the surface water sewer at manhole 0404. The surface water discharge rate shall not exceed the available capacity of 5.0 l/sec that has been identified in this sewer.

*Reason: In the interest of the adequate disposal of foul and surface water in accordance Part 14 of the NPPF.*

12. Remediation works shall be carried out in accordance with the approved contamination remediation strategy, dated February 2019. The development shall not be brought into use until such time as a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

*Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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

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## **BACKGROUND PAPERS**

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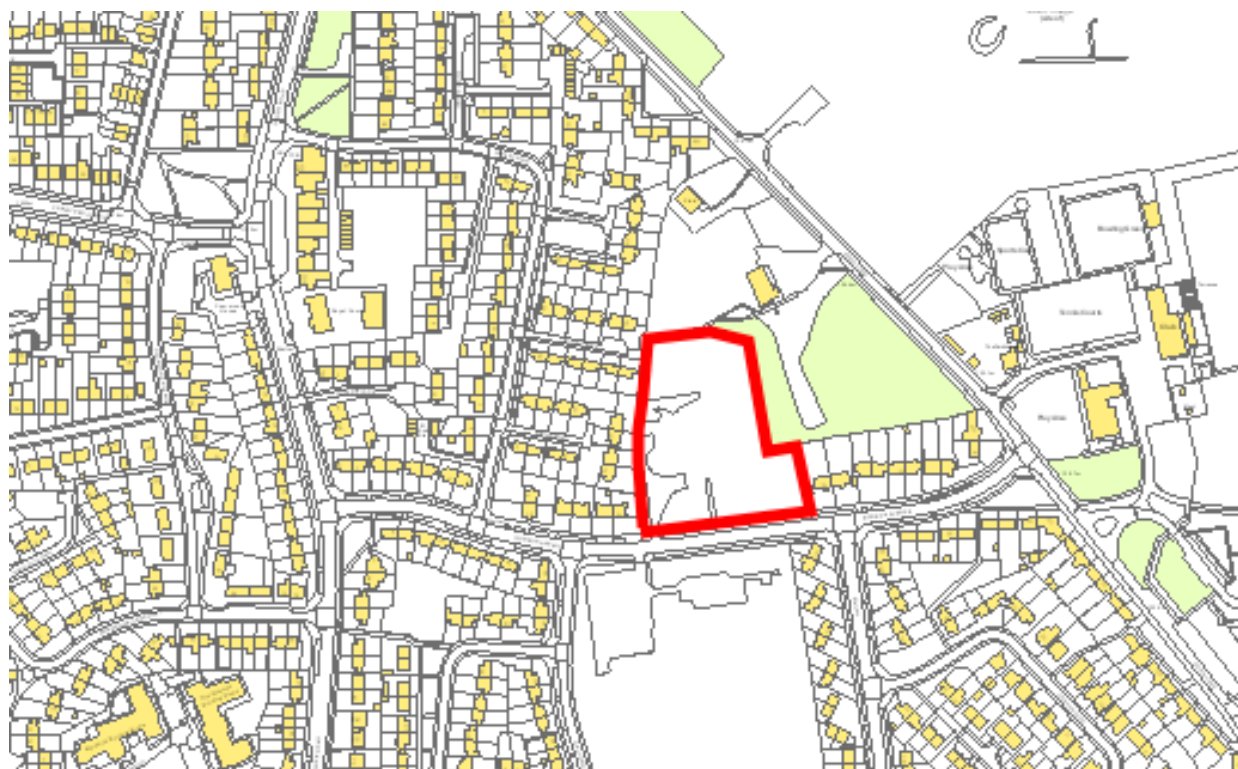
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Easington District Local Plan

Statutory, internal and public consultation responses



## Planning Services

Construction of a new 2 and 3 Storey Extra Care building (falling within Class C2) providing 71 no. Apartments, associated access and hard and soft landscaping (amended description) at Robson Avenue

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### Comments

### Date

10 December 2019