



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/21/01697/FPA
Full Application Description:	Erection of 2no. apartment blocks containing 8no. residential apartments (C3) (16no. in total) with associated parking.
Name of Applicant:	Renovat8 Homes & Property Management Ltd
Address:	Land East And West Of 5-8 Rosewood Walk Ushaw Moor DH7 7JY
Electoral Division:	Deerness
Case Officer:	Leigh Dalby (Senior Planning Officer) Tel: 03000 261 959 Email: leigh.dalby@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The site comprises approximately 0.13 hectares of undeveloped land within the centre of Ushaw Moor sandwiched between Broom Lane (B6302) to the North and Rosewood Walk / High View to the South. The proposed development is accessed from Rosewood Walk to the South of the site. The site forms 2no. broadly rectangular parcels of land and is bounded by Residential uses to the North, South and East, with commercial retail to the west.
2. The site benefits from good public transport links, with bus stops on Broom Lane and Whitehouse Avenue to the North and West of the site providing direct access to Durham City and outlying villages.

3. The site is approximately 150.0m to the nearest Primary schools (St. Joseph's RC Primary School and Silver Tree Primary School), and local amenities on Broom Lane and White House Avenue.

#### The Proposal

4. The proposal seeks full planning permission or the erection of 2no. apartment blocks each containing 8no. residential apartments (C3) (16no. in total) with associated parking. The dwellings are to be a mix of one and two bed units consisting of:
  - 4no. one bed units,
  - 12no. two bed units
5. The proposal will provide internal bin storage and cycle storage
6. The application has been brought to the Planning Committee for consideration following a call-in from Councillor Marion Wilson in relation to concerns over parking in accordance with the Council's scheme of delegation.

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#### PLANNING HISTORY

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7. 4/06/00608/FPA - Erection of 6 no. residential apartments with 7 no. parking spaces. Approved. 06.09.2006
8. 4/96/00467/FPA – Erection of 6no. dwellings. Approved. 16.09.1996
9. 4/89/0012/FPA – Erection of 11 dwellings. Approved.

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#### PLANNING POLICY

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##### **NATIONAL POLICY**

10. 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.
11. 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;
12. 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.

13. 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.
14. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
15. 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.
16. 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.
17. 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.
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 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.

**LOCAL PLAN POLICY:**

20. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
21. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
22. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
23. Policy 15 (Addressing Housing Need) establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
24. Policy 19 (Type and Mix of Housing) advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes.
25. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
26. Policy 25 (Developer Contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the

development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.

27. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
28. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
29. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.

Provision for alterations and extensions to residential property to be sympathetic to existing building and character and appearance of area

Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety

Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

30. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
31. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
32. Policy 33 – Renewable and Low Carbon Energy – states that renewable and low carbon development energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associate developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
33. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water
34. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
35. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide

suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.

36. Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.

Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

37. Policy 56 (Safeguarding Mineral Resources) states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.
38. There is no relevant neighbourhood plan within this area.

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

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY AND INTERNAL RESPONSES:

39. The following comments were received following consultation with Statutory and Internal consultees.
40. **DCC Highways** – No objection subject to conditions.
41. **DCC Env. Health Statutory Nuisance** – No objections subject to conditions

42. **DCC Environmental Health (Contaminated Land)** – No objection subject to conditions
43. **DCC Drainage and Coastal Protection** – No objection subject to a condition to provide hydraulic calculations and engineering layout
44. **DCC Education** – Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.

#### **NON-STATUTORY RESPONSES**

45. **NHS** – confirmed no contributions necessary
46. **City of Durham Trust** – Objects to the proposal as it would be contrary to Policy 29 in that it fails to meet NDSS requirements, poor ventilation to circulation space and bin storage, substandard separation distances and fails to meet the sustainability requirements.

#### **PUBLIC RESPONSES**

47. The application has been publicised by way of site notice, press advert and notification letters sent to neighbouring properties. In response 22no. letters of objection were received, and 1no. letter of support; a summary of the points of objection are as follows:

##### Objection

- Access issues for large vehicles (Emergency, Delivery and Bin lorries)
- Parking
- Highway safety
- Congestion on Broom Lane and Rosewood Walk
- Lack of Turning head
- Loss of Privacy and Overlooking
- Design is out of keeping with the area
- Insufficient health, school and retail facilities to support more residents
- No ventilation to bin store
- Will block view of Deerness Valley for properties on Broom Lane
- Impacts to residents during constructions phase
- No defensible space to front

##### Support

- Will provide modern housing
- Bring back into use an unsightly site

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

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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48. 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 47 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, the impact on residential amenity, highway safety, and the character and appearance of the streetscene.

### Principle of Development

49. Policy 6 of the County Durham Plan supports development on sites which are not allocated in the Plan, but which are either within the built-up area or outside the built up area but well related to a settlement, stating that such development will be permitted provided it is compatible with uses on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
50. As detailed above policy 6 of the CDP permits development on unallocated sites provided it meets the criteria set out within the policy. In this regard it is considered that the proposal can draw in principle support from this policy given that it is within the built up framework of Usher Moor, within close proximity to compatible residential uses and would not be prejudicial to any existing or permitted adjacent uses, subject to consideration in greater detail below (criteria a), it is within the existing built framework of Ushaw Moor and would not lead to coalescence with neighbouring settlements (criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and has easy access to sustainable transport and local facilities (criteria f). The proposal will not result in the loss of local facilities or services (criteria g). Consideration of criteria d, e, h of policy 6 is considered elsewhere within this report. It is not considered that criteria i, j is appropriate in relation to this proposal.
51. It is therefore considered that the principle of residential use in this location is acceptable subject to the relevant material considerations as set out below.

52. Policy 15 of the CDP establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
53. The application proposes to provide 16 residential units which would result in a need to provide 2 affordable units. Given the nature of the development is apartments which result in impracticalities of a small proportion of on-site provision, it is considered appropriate to require an off-site contribution equivalent to 2 affordable units to satisfy the requirements of Policy 15. The policy requirement of affordable housing contribution will be secured by way of a s106 agreement.
54. Policy 15 additionally requires that all housing developments provide a minimum of 66% of the units to be Building Regulation M4(2) compliant and 10% suitable for older persons. In this regard the applicant has provided details within the application that the units are to be built to M4(2) standard, which can be controlled by planning conditions, the 66% required by policy equates to 10 units. This requirement can be secured by condition. In addition, the scheme proposes 4 no. ground floor level access flats which is considered would provide over 10% of dwellings suitable for older persons as such would comply with Policy 15 and this is detailed on the submitted plans.
55. Policy 19 of the County Durham Plan requires that developments secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes. In this regard the development has provided a good mix of 1 and 2 bedroomed properties. It is therefore considered that the mix of two storey and bungalows proposed is acceptable and in accordance with the provision of Policy 19.

#### Developer Contributions

56. Policy 25 (Developer Contributions) of the County Durham Plan advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Para 5.253 of the supporting text for policy 25 states "There should be no instances where essential site-specific infrastructure and mitigation cannot be secured because of viability concerns. However, in these situations where the infrastructure is an essential prerequisite to enable the site to be developed, a scheme will be deemed unacceptable in planning terms. In view of this the following developer contributions were requested in accordance with the Council's policies:

#### Open space / Green Infrastructure

57. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green

infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.

58. In accordance with Policy 26 and having regards to the Councils Open Space Needs Assessment (OSNA) it is considered that the development should provide a financial contribution of **£27,825.50** towards off-site facilities such as allotments, parks, sports and recreation grounds and play space.

#### Education provision

59. Paragraph 95 of the NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to proactively meet the requirement. Whilst objections have been received from existing residents that the development would result in additional pressures upon school places, the Councils Education team have confirmed that there is sufficient existing educational provision within the area to the extent no contributions are necessary.

#### Health Contributions

60. Paragraph 34 of the NPPF required Local Authorities to have regard to setting where contributions are necessary within the Local Plan. In this regard Policy 29(f) of the CDP requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users. The local NHS Clinical Commissioning Group (CCG) have confirmed that there is sufficient local health service facilities to accommodate future residents of the development and have therefore stated that a financial contribution is not necessary.

#### Affordable Housing Contributions

61. As per Paragraph 53 above, the application proposes to provide 16 residential units which would result in a need to provide 2 affordable units. Given the nature of the development is apartments which result in impracticalities of a small proportion of on-site provision, it is considered appropriate to require an off-site contribution equivalent to 2 affordable units to satisfy the requirements of Policy 15 which will be secured by way of a s106 agreement.

#### Developer contribution conclusion

62. As detailed above it is considered that the proposal is in accordance with Policy 15, 25 and 26 of the CDP to mitigate the impact on the development subject to the completion of a s106 agreement to secure the obligations.

#### Impact upon Residential Amenity

63. Policy 29 (Sustainable Design) of the CDP requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.
64. Policy 29 also require that new major residential development is assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare in town centres and highly sustainable locations. As this is a flatted development which is by nature a high-density scheme, the density levels equate to 132 dwelling per hectare. However, in terms of ground coverage the density equates to 30 dwellings per hectare.
65. In addition to the above policies within the CDP, the Local Authority has adopted a residential design SPD which sets out the Councils expectation in relation to privacy distances and private outdoor amenity space (Gardens). In this regard the development would need to achieve a minimum of 21.0m between two storey buildings and 18.0m between bungalows with an additional 3.0m for every additional storey. In this instance the SPD would require 24.0m separation between main elevations.
66. The above policies and SPD are in broad accordance with paragraph 130 of the NPPF which requires that planning decisions should ensure that developments will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
67. It is acknowledged that at the point of submission of the application the requirement for dwellings to be NDSS compliant was not applicable, as this did not become a requirement until October 2021. However, the applicants have amended the scheme to ensure that the units meet the NDSS standards it is therefore considered acceptable in this regard.
68. In relation to the Residential Design SPD adopted by the Council (as detailed above) the proposed site plan indicates that the distance between the proposed apartments and the dwellings to the North and South are beneath that set out within the SPD. However, paragraph 3.5 and 3.6 of the SPD states that these standards are not intended to be rigidly applied and can be relaxed where it is considered that the relaxation will not impact privacy and outlook and where the elevations are public facing elevations and reflects the character of the area

69. The proposal has an approximate separation distance of 16.5m between the proposed scheme and the properties on the North side of Broom Lane, this distance is similar to the historic and existing separation distances between public facing elevations of residential dwellings to the North and South of the Broom Lane and form the character of the immediate area, therefore in accordance with the SPD as detailed above.
70. To the South of the site the separation distances varies from approx. 15.0m to 21.0m, which is acknowledged to be beneath the required SPD requirements. However, the buildings have been designed in such a manner to have obscure glazing to the main south elevation and directional windows to provide natural light and ventilation to the units whilst maintaining the privacy of the dwellings to the South. In this regard it is considered that in accordance with para. 3.5 of the SPD that the proposal will not significantly impact the privacy and outlook of existing dwellings to the South.
71. Crime, and fear of crime are material planning considerations. Paragraph 92(b) of the NPPF states that planning decision should aim to ensure that developments provide health, inclusive and safe places that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In this regard it is considered that the proposal meets the test of Paragraph 92 of the NPPF and Policy 29(m)(1 and 6) in that the proposal will not result in a fear of crime, but rather remove an area of land currently unmanaged and unmaintained that could be a source for anti-social behaviour.
72. Concerns have been raised in relation to the scheme not being compliant with Policy 29(n) of the CDP. The section requires major new residential development to be assessed against the Building for Life (BfL) supplementary document. However, the supporting text for this policy provides the context as to when this element of policy 29 is applicable, in this regard para. 5.298 of the CDP states that the requirement for a BfL should be in line with the Building for Life SPD which states that the BfL assessment is only applicable on scheme of 50 or more or sites of 1.5ha or more, or smaller scheme in sensitive locations. As this scheme is beneath 50 units, and not in a sensitive location the requirement for a BfL assessment is not necessary. Therefore, is element of Policy 29 is not relevant in the consideration of this proposal.
73. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

74. The Council's Env. Health officer has accessed the development and concluded that the proposal has the potential to cause a statutory nuisance in relation to dust and noise during the construction phase for existing nearby residents and potential noise impacts on future occupants by nearby commercial businesses and roads. However, they have confirmed that subject to planning conditions the nuisances can be mitigated. As such it is considered that the proposal is acceptable in relation to the impact on the surrounding residents subject to the requested conditions.
75. Therefore, in conclusion it is considered that the proposal is acceptable in relation to the requirements of Policy 29 and 31 of the County Durham Plan, along with the Residential Design SPD, and sections 8 and 12 of the NPPF.

#### Sustainability and Energy Efficiency

76. Policy 29 of the County Durham Plan criteria c and d require that developments should seek to minimise greenhouse gas emission by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and should minimise the use of non-renewable and unsustainable resources.
77. The applicants have provided a sustainability statement that confirms that the development will be constructed using a fabric first approach utilising a high-performance thermal element in the construction materials that will exceed the current building regulation requirements and meet the Councils minimum target of a 10% improvement.
78. In addition, the building would utilise PV solar panels to reduce energy consumption and water harvesting to make best use of natural resources.
79. In light of the above it is considered that the proposal is acceptable in regard to the provision of Policy 29 c d and o, subject to a planning condition requiring a detailed scheme to be submitted and agreed by the LPA in this regard.

#### Highway and Pedestrian Safety

80. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document
81. The Council's Highway Engineers have assessed the proposal and concluded that the proposal accords with the DCC Parking Standards and that subject to the conditions in regard to parking spaces dimensions and EV charging points that the proposal is acceptable.
82. It is acknowledged that considerable objection has been received in relation to parking, and the development of the site will remove existing parking provision utilised by residents. At present the land in question is being used by local residents for unauthorised parking, however, this could be removed by the owner of the land at any point and that private land cannot be relied on to provide car parking provision for residents.

83. The parking issue is an historic matter created due to the age of the properties having been constructed when there was less need for car parking. Whilst it is acknowledged that people have been using the lands subject to this application and the access road for parking this is not a right, and not something that should in planning terms prevent the landowner from developing their site, furthermore, the parking situation will have been known to occupiers of the existing dwellings and taken into consideration when choosing to live in the locality.
84. In light of the above it is considered that subject to the conditions requested by the Highway Authority the proposal complies with Policy 21 of the County Durham Plan, and Part 9 (Paragraph 112) of the NPPF.

#### Impact on the character and appearance of the street scene

85. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
86. Policy 29(n) states that developments shall be assessed against the Building for Life SPD and that proposal with one or more red scores within the Building for Life 12 traffic light system will not be acceptable unless there are significant overriding reason. In this regard the application was assessed by design review at pre-application stage, which highlighted 3 areas of red relating to the inward facing nature of the development, additional open space, poor connectivity within the site and to the wider locality and a lack of locally inspired character to the scheme.
87. The proposed apartment blocks are considered to be of a comparable scale and design to the existing built framework of the area, and whilst higher than the dwellings separating the blocks, it is not considered to be sufficient detrimental to the character and appearance of the area to warrant refusal of the application.
88. The final external materials are to be agreed via planning condition, and as such it is considered that the development will be in keeping with the surrounding of the area.
89. It is therefore considered that the design and appearance is acceptable in the context of the surrounding residential areas and maintains an element of separation and circulation between the buildings. As such the development is considered to accord with policy 29 of the CDP.

#### Drainage

90. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site,

commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.

91. Whilst Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
92. The Council Drainage and Flooding section have assessed the scheme and concluded that the scheme is acceptable subject to appropriate planning conditions
93. It is therefore considered that the scheme is acceptable in relation to Policy 35 and 36 of the CDP subject to appropriate planning conditions.

#### Public Sector Equality Duty

94. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
95. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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#### CONCLUSION

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96. In summary it is considered that the principle of the proposed development is acceptable in planning terms as detailed above to meet the needs of the local area, subject to the conditions as set out below.

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#### RECOMMENDATION

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That the application be **APPROVED** subject to a s106 agreement to secure a developer contribution equivalent to the provision of 2 units for off-site affordable housing provision and, developer contributions of **£ 27,825.60** towards the open space and amenity space and subject to the following conditions;

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

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 1, 6, 15, 19, 21, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

3. No development shall take place until an acoustic report, carried out by a competent person in accordance with all relevant standards, on the existing noise climate at the development site has been submitted to and been approved in writing by the Local Planning Authority. The aim of the report will be to establish whether sound attenuation measures are required to protect future residents from the transferral of sound from road traffic/commercial noise. In the event that the acoustic report finds that the following noise levels would be exceeded a noise insulation scheme shall be submitted to and approved in writing by the Local Planning Authority.

- 35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)
- 30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
- 45 dB LAmax in bedrooms during the night-time
- 55dB LAeq 16hr in outdoor living areas

The approved scheme shall be implemented prior to the occupation of the development and shall be permanently retained thereafter.

Reason: To protect the residential amenity of future residents from the development in accordance with Policy 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

4. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

- 1.A Dust Action Plan including measures to control the emission of dust and dirt during construction.

2. Details of methods and means of noise reduction/suppression.

3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
5. Designation, layout and design of construction access and egress points.
6. Details for the provision of directional signage (on and off site).
7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
10. Routing agreements for construction traffic.
11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species because of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

5. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed, and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

7. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time 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 Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

8. Prior to the first occupation of any dwelling hereby permitted details of electric vehicle charging points and locations shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details and retained in perpetuity

Reason: To ensure a satisfactory form of development in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF.

9. No development shall commence until detailed drawings, including sections, showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

10. No development shall commence above damp proof course of any of the dwellings until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of policy 27 of the County Durham Plan.

11. Notwithstanding any details of materials submitted with the application no development shall commence above damp proof course of any of the dwellings until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

12. Prior to the first occupation of the development hereby approved details of the hydraulic simulation calculations for all storm events including the 1 in 100 year plus 40% climate change in digital format along with an engineering layout plan detailing the cover, invert and floor levels as indicated on the Flood risk Assessment and Drainage Strategy shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure a satisfactory development in accordance with Policy 35 of the County Durham Plan and Part 14 of the NPPF.

13. Prior to the first occupation of the development hereby approved, details of bin and cycle store detailing the refuse collection path and 1 cycle space per dwelling shall be submitted to and approved in writing by the Local Planning Authority. The bin / cycle stores shall be constructed in accordance with the approved

details and be made available prior to the occupation of the development to which they relate and shall be retained thereafter.

Reason: In the interests of visual amenity and highway safety in accordance with Policies 21 and 29 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

14. Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the development hereby permitted being brought into use. The detail provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting shall be erected and maintained in accordance with the approved details thereafter.

Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.

15. Prior to installation of the water proof damp coursing associated with the dwelling hereby approved, details of a scheme to minimise greenhouse gas emissions, with the aim of achieving as close as possible a zero carbon building, shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation and details of the SAP calculations which would identify a 10% reduction in the minimum Building Regulation requirement as the time of construction. The renewable and low carbon energy measures shall be installed in accordance with the approved details thereafter.

Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in policy 29c) of the CDP

16. 10 No. of the apartments hereby approved shall be built to Building Regulations M4(2) standards. No dwelling built to the Building Regulations M4(2) shall be occupied until a further verification confirming that said dwelling has been built to Buildings Regulations M4(2) standard, from a suitably competent person, has been submitted to and approved in writing by the Local Planning Authority. Said verification shall include sufficient plans and details which demonstrate compliance with the Building Regulations Standard M4(2) requirements.

Reason: In the interests of the residential amenity of future occupiers in accordance of Policies 15, 29 and 31 of the County Durham Plan and Part 12 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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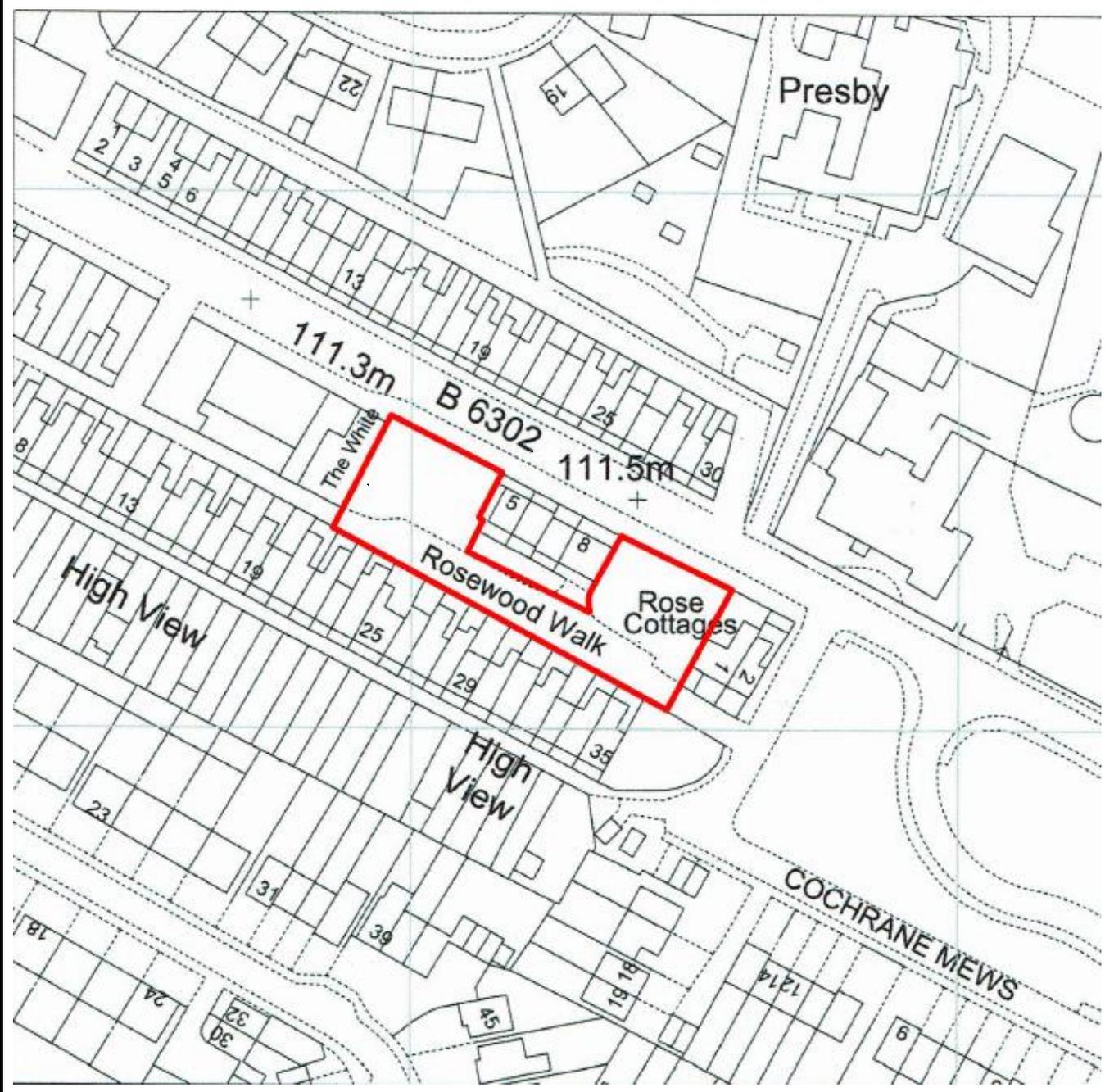
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses



<p><b>Planning Services</b></p>	<p>Erection of 2no. apartment blocks containing 8no. residential apartments (C3) (16no. in total) with associated parking..</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>Land East And West Of 5-8 Rosewood Walk Ushaw Moor DH7 7JY</p>	
	<p><b>Date 24.03.2022</b></p>	<p><b>Scale NTS</b></p>