

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/22/01005/FPA
FULL APPLICATION DESCRIPTION:	Change of use of office headquarters (sui generis) to higher education (Durham University Business School) (Use Class F1a)
NAME OF APPLICANT:	Durham University
ADDRESS:	The Waterside Building, Riverside Place, Durham DH1 1SL
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Claire Teasdale, Principal Planning Officer 03000 261390 claire.teasdale@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. Planning permission was previously granted for the erection of office headquarters with associated car parking (inclusive of a multi-storey car park) with associated landscaping, highway and infrastructure works and demolition of existing structures (Planning Permission No. DM/18/02369/FPA). The office headquarters being originally intended for use by Durham County Council. The application area comprised two parcels of land on the eastern and western sides of Freemans Place within Durham City centre with a combined area of 1.4ha. The western area being the site of the office building and the eastern area, on land adjacent to Durham Sixth Form Centre, being the site of the multi story carpark. Subsequent variation of condition applications have been approved (Planning Permission Nos. DM/20/00702/VOC and DM/20/03394/VOC).
2. The current application site covers an area of approximately 0.9ha comprising: the new constructed office headquarters building; the maximum extent of the surrounding public realm on the boundaries of the building where this was designed to manage surface flows during storm or flood events, and the surface level car park adjacent to the building and the sprinkler tank within it. The building has been completed but is not yet occupied. The multi storey car park which formed part of the previous applications, and also now completed, is not included in the application.
3. To the south, the site borders the recent Freemans Reach development, to the west is the River Wear, to the east is Durham Sixth Form Centre (DSFC) and in the north the open land of the Sands.

4. Freemans Place is approximately 500m in length and runs on a north/south alignment. It forms a priority junction with Providence Row to the north east of the application site and extends southwards where it meets the A690. The section of the route adjacent to Walkergate is one-way only. Providence Row, which runs on a north west/south east alignment, which rises on the approach to Claypath where it forms a signalised T junction.
5. The application site lies within the Durham City Town Centre boundary as defined by the County Durham Plan.
6. The site is located within the Durham (City Centre) Conservation Area. It is within the setting of the Durham Castle and Cathedral World Heritage Site (WHS), the boundary of which is situated approximately 400m to the south. The WHS site itself contains a host of listed buildings including the grade I listed Cathedral and Castle and several individually listed associated features and structures.
7. There are no Public Rights of Way (PRoW) within or abutting the site, though Footpath No. 77 (Durham City Parish) is located opposite the DSFC car park.
8. The application site is immediately adjacent to the River Wear. The application site is principally located within Flood Zone 3a as defined by the Environment Agency.
9. The site is not covered by any national or local landscape designations. An Area of Higher Landscape Value as defined by the County Durham Plan lies to the north of the site as is a tree belt between car park adjacent to the existing building and the River Wear. The Sands also to the north of the site is designated Green Belt.
10. The application site does not contain any statutory or locally designated ecological sites. The closest designated sites being Frankland Pond Local Wildlife Site (LWS) approximately 450m to the north, Pelaw Wood LWS approximately 815m to the south-east and Flass Vale LWS and Local Nature Reserve (LNR) approximately 650m to the south-west.
11. The site is located within a River Sand and Gravel Mineral Safeguarding Area, Coal Resource Mineral Safeguarding Area, Surface Mined Coal Resource Area and Coalfield Development High Risk Area.

The Proposal

12. The proposed development is for a change of use from office headquarters (Sui Generis) to further education use (F1.a) specifically the Durham University Business School (DUBS). It is proposed that the current internal layout could be adapted to meet the requirements of the University, and any such changes would not require planning permission. No amendments or external alterations to the building or external areas as previously consented and now in situ are proposed. No change to the previously approved access arrangements to the building are proposed. No changes are proposed to the previously approved landscaping or lighting details secured through previous grant of planning permission. In areas such as the civic square that hard landscaping would be managed and maintained by the University.
13. Although the area of car parking adjacent to the building is included within the application area the University does not intent to make use of it. It would remain in the ownership of the Council along with any maintenance responsibilities associated with car park landscaping. The tree belted area would be retained thus securing continued screening of the car park from the River.

14. It is anticipated that the building would have a capacity for up to 2,300 students and staff and that the building would be open 24 hours and 7 days a week during term time (with out of hours porter staff coverage) with core teaching hours being typically 9am to 6pm on Monday to Friday with the approved ancillary café spaces also retained as per the consented development and operational from 8am to 5pm (also Monday to Friday). Some deviation from these times may occur during Epiphany and Easter terms whereby teaching may take place until 9pm and where some teaching spaces are used on Saturdays and Sundays. Lighting would only be utilised when required. The café may also be required to occasionally open late if late night teaching was taking place for some classes but would only be open to those using the building at that time. The building would be closed during the University's Christmas closure period but monitored by University Security at all times.
15. Under the extant planning permission for the office building, the roof terrace space cannot be used or occupied outside of the hours of 7am to 11pm except in an incidence where access is needed for essential maintenance purposes. The occupancy level of the roof terrace space is limited to no more than 163 persons. No changes are proposed to this use.
16. The original application was Environment Impact Assessment (EIA) development having regards to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) and the application was accompanied by an Environmental Statement (ES). During consideration of that application further information was submitted. The report that was presented to the County Planning Committee took into account the information contained in the ES and subsequently submitted details and that arising from statutory consultations and other responses. The subsequent variation of condition applications were accompanied by ES Addendums. The current application has been the subject of a Screening Opinion prior to submission of the application. It was concluded that the proposal is not EIA development, and any future planning application would not need to be supported by an Environmental Statement in line with the Regulations.
17. The application is being presented to County Planning Committee as in the opinion of the Head of Development and Housing it relates to a previous application for a development that was particularly controversial.

PLANNING HISTORY

18. Historically the original application site has been subject to development with an industrial laundry dating from the early 20th Century being located on the Sixth Form Centre car park. Historical evidence highlights a mill race being located on the Sands car park dating from the 18th Century with an incinerator located on the site up until the mid 20th Century.
19. The Sixth Form Centre car park was occupied by the Sorting Office until its relocation in 1995. Since this time the following planning history has occurred at the site.
20. In January 2004 Planning Permission No. 04/00009/FPA was granted for the creation of a public surface car park for a temporary period. This permission was then renewed in October 2006 (Planning Permission No. 06/00726/FPA).
21. Planning permission for a temporary construction compound was approved in July 2013 (13/00484/FPA).

22. Planning Permission No. DM/18/02369/FPA for the erection of office headquarters with associated car parking (inclusive of a multi-storey car park) with associated landscaping, highway and infrastructure works and demolition of existing structures was approved in April 2019.
23. In June 2020 Planning Permission No. DM/20/00702/VOC for a variation of condition 2 of DM/18/02369/FPA (Erection of office headquarters with associated works and car parking) to permit installation of PV cells and roof terrace was approved.
24. Planning Permission No. DM/20/03394/VOC was granted in March 2021 for a variation of Conditions 1 (approved plans) and 7 (lighting) of planning permission DM/20/00702/VOC (Erection of office HQ with associated works and car parking) to facilitate amendments to the design of the MSCP stair and lift core, increased curtain walling, escape stair lighting, installation of lighting on the top two parking decks and re-configuration of 277 parking bays including reduction of 4 accessible bays and provision of larger dual accessibility bays together with variation of condition 3 so as to permit adherence to a revised ground gas remediation strategy.
25. The coach park which formed part of the original application and forms part of the current application, was registered as Common Land. The land was deregistered in October 2021 by the Secretary of State for Environment, Food and Rural Affairs following a public inquiry.

PLANNING POLICY

NATIONAL POLICY

26. A revised National Planning Policy Framework (NPPF) was published in July 2021. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
27. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
28. *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.
29. *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.

30. *NPPF Part 6 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
31. *NPPF Part 7 - Ensuring the Vitality of Town Centres.* Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
32. *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.
33. *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.
34. *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.
35. *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.
36. *NPPF Part 14– Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
37. *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.
38. *NPPF Part 16 Conserving and Enhancing the Historic Environment.* Heritage assets range from sites and buildings of local historic value to those of the highest

significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

39. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to: air quality; before submitting an application; consultation and pre-decision matters; flood risk and coastal change; health and well-being; travel plans, transport assessments and statements.

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

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

The County Durham Plan (October 2020)

40. *Policy 6 – Development of Unallocated Sites* – states the 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 the character of 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; encourages the use of previously developed land and reflects priorities for urban regeneration.
41. *Policy 9 – Retail Hierarchy and Town Centre Development* – seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county
42. *Policy 16 – Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation* – seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
43. *Policy 21 – Delivering Sustainable Transport* – states that the transport implications of development must be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans.
44. *Policy 22 – Durham City Sustainable Transport* – seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area.
45. *Policy 28 – Safeguarded Areas* – Within safeguarded areas development will be subject to consultation with the relevant authority and will be permitted within the defined consultation zones of the Major Hazard Sites and Major Hazard Pipelines, where it can be demonstrated that it would not prejudice current or future public safety. The Policy also requires that development would not prejudice the safety of air traffic

and air traffic services, that there would be no unacceptable adverse impacts upon the operation of High Moorsely Meteorological Officer radar and the operation of Fishburn Airfield, Shotton Airfield and Peterlee Parachute Drop Zone Safeguarding Areas.

46. *Policy 29 – Sustainable Design* – requires all development proposals to achieve well designed buildings and places and sets out criteria 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.
47. *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.
48. *Policy 35 – Water Management* – states that all development proposals will be required 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. This includes completion of a Flood Risk Assessment (FRA) where appropriate.
49. *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.

NEIGHBOURHOOD PLAN:

Durham City Neighbourhood Plan (June 2021)

50. *Policy S1 – Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions* – seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
51. *Policy T1 – Sustainable Transport Accessibility and Design* – seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

52. *Highway Authority* – Raise no objections. From a Highways perspective, this application is considered acceptable. It is not considered that the trip generation of the proposed use would materially differ from the existing use. It is considered that the building is located in a location which maximises the potential for use by sustainable modes of transport. The applicant has proposed a Travel Plan which would need to be implemented and incorporated into the University's wider Travel Plan. Parking provision would not alter from that proposed for the original use of the building. Given the sustainable location, this is acceptable.
53. *Environment Agency* – Raise no objection to the proposed change of use to a More Vulnerable classification of development, which is appropriate within Flood Zone 3 once passed the exception test, along with the proposed change of use having no increase in on or off-site flood risk. It is requested that the submitted Flood Risk Assessment and Flood Risk Management Plan are listed as approved documents should planning permission be granted, to which the development must adhere. Advice is also provided with regard to flood resistance and resilience, and flood warning and emergency response. With the latter, the Environment Agency recommend the Council undertake appropriate consultation with emergency planners and the emergency services to confirm the adequacy of the evacuation proposals.
54. In response to a query regarding the applicability of the exception test, the Environment Agency advise that the sequential and exception tests would not apply in this case and that the reference to the exception test in its response was in error.
55. *Lead Local Flood Authority (Drainage and Coastal Protection)* – Raise no objections noting that the surface water management for this scheme has been previously approved and the scheme is now constructed

INTERNAL CONSULTEE RESPONSES:

56. *Spatial Planning* – Raise no objections. It is considered that the proposed use is acceptable for this building and the proposal would not conflict with CDP Policy 9 and can also satisfy the relevant criteria laid out within CDP Policies 6 and 16. For these reasons there are no policy objections to the proposal.
57. *Environment, Health and Consumer Protection (Nuisance Action)* – Raise no objections. Officers have assessed the noise impact assessment submitted with the application and agree with the conclusions drawn therein. Concurring that any conditions regarding noise, such as mechanical plant rating level limits, roof terrace usage hours and occupancy numbers attached to the previous usage be maintained and adhered to. It is considered that the application complies with the Council's Technical Advice Notes and indicates that the development would not lead to an adverse impact. Furthermore, officers are satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.
58. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. Officer have considered the application and on the basis that the proposed

development is now fully constructed and there would no dust or air quality emitting activities associated with construction activity, the development would not increase traffic generation compared to that assessed in the original air quality assessment, and that no energy plant is proposed, it is considered that no further air quality assessment is required.

59. *Ecology* – Raise no objection. No ecological issues are identified especially given that there are no changes to the lighting arrangements as previously proposed.
60. *Design and Conservation* – Raised no objections. Officers note that given the highly prominent riverside location, any proposed changes to the previously approved lighting strategy need to be considered in the context of impact on the conservation area and night-time setting of the World Heritage Site. In addition, any signage strategy for building would need to be considered in any future application for advertisement consent.
61. *Sustainable Travel* – Raise no objections considering that the submitted Travel Plan has been assessed as meeting the required standard.
62. *Emergency Planning/Civil Contingencies Unit* – advise it has no major comments to make.

PUBLIC RESPONSES:

63. The application has been publicised by way of press notice, site notice and individual notification letters to 825 neighbouring residents and occupiers. 3 representations have been received, 1 objection, 1 support and 1 representation commenting on the application.

Objection

64. The objection received from a member of the public states that a robust case was made for the original application for a Council building and the benefits associated with it. Concerns are raised regarding statements from the current political administration that members of the public do not approve of the site for its permitted use, but evidence of this is not provided.

Support

65. *North East Chamber of Commerce* – supports the application recognising the benefits for the wider North East area. It notes that the Business School is one of the University's most important assets, attracting students locally, nationally and internationally, delivering academic excellence, and generating revenue, providing direct social and economic benefits to the local area and County. The Sands relocation presents an opportunity to maximise the benefit of DUBS to the City, making a unique contribution to the County.
66. The role of the Chamber and the partnership with the University is highlighted and it is noted that the Chamber supports initiatives which help to create new jobs and investment in the region, enable the growth of international trade, and provide a catalyst for investment and collaboration for innovation. Promoting the academic excellence of the North East as a global asset is part of that mission. It understands that the University has been looking to relocate its world-renowned Business School for the last five years and that this proposal represents an important opportunity to deliver on that strategic ambition, whilst adding economic and social value to the heart of Durham. The most recent economic impact assessment of the Business School

demonstrates that DUBS already delivers £83.1m in GVA and supports 617 jobs. The assessment estimates an additional £32.2m GVA and 185 more jobs could be generated from the proposed new Sands site.

67. The Chamber goes on to say that Durham's heritage as England's third oldest university is well-known. It is an important anchor organisation within the County: for every £1 the University generates it levers £4.56 back, much of which is invested in City, County and wider region. County Durham, in line with the wider North East, still faces some challenges around productivity and employment. The Chamber recognise that the University is working closely with the Council and business networks to address these challenges collaboratively as an example of positive 'place-shaping and making'. The Business School's vision to "lead business thought and practice to improve global wealth and well-being" is ambitious, progressive and aligns strongly with the work of regional partners in thinking about how the North East can be a leading voice in conversations around planet, people and profit. The Chamber states that the University is putting this vision into practice with a greater focus on first generation graduates and £10m of academic support and scholarships to improve opportunities for young people from County Durham and the North East to access the University and DUBS. It is also stated that Durham University plays an important leadership role in a number of strategic development programmes.

Comments

68. *City of Durham Trust* – Notes the change of use but has substantial concerns about aspects of the change and its implications. The Trust states it objected to the original building and the absorption of the adjacent car park and its release from the Sands Common. The building remains a concern because of the continuing potential for flood and concerns are raised regarding comments made by the Environment Agency concerning potential danger to life. The Trust seeks reassurance that there would be more further changes to external spaces to counter the risk and public users are adequately protected.
69. The Trust welcomes reassurances regarding the growth of the university set out in the application, however due to the proposed 24/7 use the Trust seeks reassurances that this would not result in as yet unidentified changes to the building or greater impacts on surrounding areas. It is also stated that there is public access across the released common area which is the car park now included in the change of use application. The Trust states that the application boundary excludes landscaping that surrounds the car park adjacent to the building to the west and south. This is considered to make little sense and would subdivide future responsibility for its upkeep. The Trust is of the view that the application offers no certainty of screening for the car park or whether the public are to be excluded. The impact of the roof terrace is raised as a concern given the change of use is significant and the building would be in 24/7 use, the Trust seeks reassurance that this negative impact from terrace use would not be increased. The future of art related to the County Council, installed etched glass panels, is queried.
70. It seems to the Trust that there are loose ends yet to be resolved and the application appears a little rushed. It is concerned that there may be unidentified changes necessary to accommodate the new use. The Trust considers that the issues it identifies should be resolved at this application stage, at least in principle, rather than being held over to be dealt with under planning conditions.
71. Specific comments are made in respect of the submitted Transport Statement and Travel Plan. With regard to the Transport Statement reservations are made regarding the method of calculating car trip generation. With regard to pedestrian traffic the Trust

considers that there would likely be a marked increase in foot traffic along New Elvet and Church Street which have congestion at peak times and are identified for improvement in the Local Cycling and Walking Infrastructure Plan for Durham City and would like to see the footway widths evaluated. The evidence presented does not rule out the possibility of severe cumulative impact on the highway network. In terms of cycle access and parking it is stated that the lack of a dedicated network would substantially reduce the numbers of people likely to cycle. A condition requiring identification of space for additional cycle parking spaces and their future installation is requested as the Trust considers that there would be insufficient. In terms of car parking, it is considered unclear whether the County Council or the University would manage the surface car park. It is also suggested that overall car parking provision will soon exceed that required to accommodate staff. A reduction in the car parking available for University use across the estate, combined with charging for permits or use, would be appropriate. A condition requiring the Travel Plan and the annual survey to be updated to reflect the opportunities to reduce travel demand through working from home should be required should planning permission be granted. With regard to the Travel Plan the Trust considers that overall, it shows a well-evidenced level of ambition, and includes many practical and effective measures, especially regarding bus travel. More work is needed on management of car parking, and on aspects outside the University's direct control, such as the walking and cycling infrastructure.

APPLICANTS STATEMENT:

72. It has been demonstrated that the change of use of the Durham County Council headquarters to higher education and more specifically, Durham University Business School, is acceptable in planning terms and accords with the Policies within the County Durham Plan. The Development Plan is explicit in its support for the sustainable improvement of facilities associated with Durham University. More specifically, it is demonstrated via BiGGAR economics that it is crucial that the Durham University Business School retains its leading status through the continued delivery of world class teaching and investment in new facilities. Durham University are clear that in order to achieve this they need to relocate the existing school to a new site.
73. There is a dearth of suitable and available alternative sites within Durham City for the Business School to relocate. If the School is unable to relocate to a new facility it is anticipated by BiGGAR economics that, to the detriment of Durham City, income, staff numbers and student numbers would decrease by at least £4.2m GVA and 31 jobs. Whilst there is a clear preference and objective to remain within County Durham, it is imperative that new facilities are provided. It is estimated that the improved facilities at Freeman's Place would result in an increase of £32.2 million GVA and 185 jobs by 2032 taking the overall impact of the business school to £111.2 million GVA and 770 jobs in County Durham.
74. The original proposal to relocate County Council operations to Freemans Place formed part of a wider programme of public and private investment in Durham City Centre (including Milburngate, Riverwalk, North Road Bus Station and the Aykley Heads Strategic Employment Site) much of which would retain or increase the number of people and associated spend within the heart of the City. Whilst the proposed change of use would no longer relocate Council staff, the relocated post graduate and mature students and staff would meet the same objective. At a time when many city centres are struggling the relocated Business School would act as an "anchor" and assist in retaining pedestrian footfall between the campus and Freemans Place.
75. Notwithstanding the socio economic considerations, very little has changed since the grant of planning consent for the building now in situ. There are no proposed changes

to the design of the building within this application and the identified civic spaces immediately outside the building would remain accessible to the public.

76. The application has been subject to extensive pre-application consultation with the Environment Agency prior to submission to ensure that the updated Flood Risk Management Plan is suitable for the use of the building by the University and it has been demonstrated that the requirements of policy and guidance are met in full.
77. Furthermore, the application has been subject to extensive community consultation with the City of Durham Parish Council and other stakeholders. The proposal is within a location that is accessible to all via a range of means of transport. Indeed, as the majority of students do not travel to University by car it has been demonstrated that there would be net reduction in vehicle movements to and from the building (320 trips per day). This city centre building represents a truly sustainable location for the Business School.
78. In summary, Durham University is recognised as a global asset to County Durham. England's 3rd oldest University (Established 1832) contributes over a billion pounds of GVA to the UK economy. It supports 6,670 jobs in the County alone, attracts over a quarter of a million visitors to Durham City, provides £10m of academic support and scholarships to local people and supports 35,000 hours of volunteering every year for local charities across Durham. The proposed relocated Business School competes at the top of the world rankings and is connected to a 38,000 strong alumni network across 140 countries – each influential person spreading the good word about Durham. The Business School needs a new home to welcome some of the world's most recognisable and influential organisational brands, inspire the UK's most important employers and jointly collaborate with County Durham's most ambitious and innovative companies. This proposal for a new and relocated Business School therefore represents an essential step for Durham City and the wider region.

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://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

79. 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. The National Planning Policy Framework (NPPF) and the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received.
80. Under the original planning permission DM/18/02369/FPA the main planning issues for consideration were: the principle of the development; visual, townscape, landscape and heritage impact; transport, highways, accessibility and equality issues; air quality; other pollution and amenity; socioeconomic and city centre impact; flood risk and drainage; ecology and consultation and determination matters.
81. The original application therefore dealt with all the 'in-principle' matters in terms of: whether the site represented an acceptable location in relation to city centre policies for office headquarters; whether the design of the building was acceptable in this sensitive location (being within the Durham Conservation Area and within the setting of other heritage assets); whether the proposal provided a suitable location in terms of flood risk and whether the site was suitable in terms of transport and accessibility.

82. The principle of the building and its use as an office has therefore been established under the original planning permission and with the assessment of the more recent Planning Permissions Nos. DM/20/00702/VOC and DM/20/03394/VOC, and the subsequent substantial completion of the building.
83. The current planning application seeks to change use of office headquarters (*sui generis*) to higher education (Durham University Business School) (Use Class F1a). The main issue with the current application relates to whether its use for educational purposes is acceptable. The matters to consider therefore are the principle of the development, flood risk and drainage, transport and highways, residential amenity and air quality, other matters and public sector equality duty. It is considered that there are no new issues in relation to matters previously considered.

The Principle of the Development

84. 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 County Durham Plan (CDP) and the Durham City Neighbourhood Plan (DCNP) comprise the statutory development plan relevant to this proposal and are the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The DCNP was adopted in 2021 and is intended to cover the period to 2035.
85. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
 - c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
86. In light of the adopted CDP and DCNP, the Council has an up to date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (Paragraph 11 c). Accordingly, Paragraph 11(d) of the NPPF is not engaged.
87. The key policies for the determination of this application are CDP Policies 6 (Development on Unallocated Sites), 9 (Retail Hierarchy and Town Centre Development) and 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation). In addition, there are a number of applicable environmental protection policies within the CDP and relevant DCNP policies to consider.

88. The building is located within the defined city centre boundary, and the CDP, through Policy 9, protects and enhances Durham City's role as a sub-regional centre through the promotion of main town centre uses (as defined within Annex 2: Glossary of the NPPF).
89. Educational facilities fall within Use Class F.1(a) (Learning and non-residential institutions), but it is recognised that this particular proposal for the business school shares many characteristics to that of a traditional office in the sense that users would visit the building and likely remain there for the majority of the day.
90. Whilst educational facilities are not specifically mentioned as a main town centre use under Annex 2 of the NPPF, it is considered that they are still appropriate uses within town centres, and with specific regard to this proposal and location, it is likely that students would use shops and facilities within the city centre which would help with its vitality and viability and associated trade levels.
91. Durham University has aspirations to move its Business School to a new facility to remain competitive with academic institutions in the UK and beyond. This includes an aspiration to become one of the top 20 business schools in Europe. This target and wider goals of the University to develop academic estate that will allow Durham University to deliver world-class education and research whilst also improving student experience, are set out in the Durham University Strategy 2017 – 2027. The University has been looking at sites in Durham to build or accommodate a new Business School but no suitable sites have been identified. A planning application for a Business School had been submitted for a site at Elvet Waterside (Application No. DM/19/02553/FPA) in 2019 but this has not progressed, and the University considers that the current application site represents a suitable and better alternative. The application is clear that the search for a new site is not related to an anticipated growth in student numbers, rather the need to improve facilities and remain competitive.
92. In terms of Durham University Development, CDP Policy 16 recognises that the University will continue to evolve and compete as a vibrant, diverse and high quality education-led mixed-use establishment, including arts and cultural uses, managed workspace for start-up businesses and other complementary uses. Planning permission will be granted for new University facilities including academic, residential, sport and cultural floor space and for the refurbishment of existing buildings where it satisfies criteria (a – h) within the Policy. These being:
 - a. the proposal respects the character and setting of the area and has regard to the needs and requirements of the local community;
 - b. there is no unacceptable impact on the Durham Castle and Cathedral World Heritage Site or its setting as assessed against the Outstanding Universal Values and opportunities are taken to enhance and better reveal its significance;
 - c. it sustains and enhances the significance of designated heritage assets, including the conservation area, including their settings and where appropriate, better reveals their significance. Development that results in harm to the setting and/or significance of designated or non designated heritage assets will not be supported unless the harm is outweighed by the public benefit;
 - d. there is no unacceptable harm on ecology and biodiversity;
 - e. the movements of staff and students around the city have been considered for all users and, where necessary, measures are provided for this demand such as widening footways, improving junctions, or through the provision of new routes for pedestrians and cyclists;

- f. parking spaces and electric vehicle charging points are provided having regard to the County Durham Parking and Accessibility Supplementary Planning Document (SPD);
 - g. in the case of sport and recreation facilities a community access agreement will be required; and
 - h. the proposal will enhance or create well-designed spaces, and exploit sustainable energy opportunities, including the delivery of district heating, where possible.
93. With regard to CDP Policy 16 criteria a, the design and appearance of the building has previously been considered and found to be acceptable. No external changes are proposed. The delivery of a new Business School would be in accordance with the Durham University Strategy and would result in socio-economic benefits to the wider community. Use as a University building by students and staff would ensure a vibrancy within the immediate area which reflects the character of neighbouring uses inclusive of Durham Sixth Form Centre, Durham Leisure Centre, neighbouring offices and leisure uses at Walkergate and Milburngate. Traffic and highways are considered below.
94. As the proposal would be utilising an existing building which was recently purpose built, it is considered that the matters covered by CDP Policy 16 criteria b, c, d, f and h have already been addressed in the assessment of the original application and found to be acceptable. Criteria g is not considered to be relevant given the nature of the proposal.
95. With regard to CDP Policy 16 criteria e, many of these issues would also have been relevant to the original application in assessing the movement of Council staff who would work at the proposed new headquarters. It should be recognised that the site is located within the city centre boundary with good walking connections into the primary shopping areas. Furthermore, the site already benefits from pedestrian and cycle infrastructure as well as public transport connections which would accommodate the Business School. Compared to the currently permitted use a lower trip rate is expected as the majority of students are likely to use sustainable and active modes of transport.
96. CDP Policy 6 permits the development of sites which are not allocated in the CDP or in a Neighbourhood Plan which are within the built-up area provided that the proposal accords with all relevant development plan policies and:
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities services unless it has been demonstrated that they are no longer viable; or
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;

- i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration.
97. The majority of the matters set out in the above criteria were taken into consideration when assessing the original planning application under relevant development plan policies in place at that time, and it is considered that only criteria a. is relevant to the current application. This requires a proposal to be compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land. Given that the proposed business school shares similar characteristics to an office, and that neighbouring uses include the passport office, Freemans Quay leisure centre and the Durham Sixth Form Centre, it is considered that the proposal would satisfy the requirements of criteria a. and it would be compatible with adjacent uses.
98. DNCP Policy S1 relates to sustainable development requirements of all development and re-development sites including all new building, renovations and extensions and sets out the economic, social and environmental criteria that development proposals will be required to meet. The current application is for a change of use and DNCP Policy S1 is not considered to be of relevance to its determination.
99. It is considered that the proposed use is acceptable for this building and the proposal does not conflict with CDP Policy 9 and can also satisfy the relevant criteria set out within CDP Policies 6 and 16 and Parts 6, 7 and 8 of the NPPF.

Flood Risk and Drainage

100. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Protection of the water environment is a material planning consideration and development proposals, including waste development, should ensure that new development does not harm the water environment. Paragraph 174 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Development should, wherever possible, help to improve local environmental conditions such as water quality.
101. CDP Policy 35 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.
102. Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.
103. The application site is immediately adjacent to the River Wear. The application site is principally located within Flood Zone 3a which is land identified as having a 1 in 100 year or greater annual probability of river flooding. Land in Flood Zone 3a is land which is therefore at a higher risk and probability of flooding.

104. When development is proposed in an area of higher flood risk the NPPF advises that there is a requirement to undertake a sequential test, the aim of which is to steer new development to areas with the lowest risk of flooding. In order to meet the requirements of the sequential test it should be demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
105. The Planning Practice Guidance (PPG) provides further advice on the sequential test and advises that a pragmatic approach on the availability of alternative sites should be taken. Table 2 of the PPG categorises different types of uses & development according to their vulnerability to flood risk. Table 3 of the PPG maps these vulnerability classes against the flood zones set out in Table 1 to indicate where development is 'appropriate' and where it should not be permitted. In Table 2 educational establishments are categorised as a 'more vulnerable' use whereas offices are classed as 'less vulnerable'.
106. The PPG advises that the sequential test does not need to be applied for individual developments on sites which have been allocated in development plans through the sequential test, or for applications for minor development or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site).
107. In addition to the sequential test, there can be instances when development is proposed in higher flood risk zones to be required to meet an exceptions test. Paragraph 163 of the NPPF advises that the need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3 of the NPPF. The exception test, as set out in Paragraph 164 of the NPPF, is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.
108. Paragraph 164 of the NPPF states that to pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Paragraph 165 of the NPPF states that both elements of the exception test should be satisfied for development to be allocated or permitted.
109. Table 3 of the PPG identifies that the exception test is required for a 'more vulnerable' use in Flood Zone 3a. However, notes to Table 3 state that the sequential and exceptions tests do not need to be applied to minor developments and changes of use, except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site.
110. The original application considered the issue of flood risk and drainage, and a sequential test was undertaken. Overall, no objections to the development were raised on flood risk and drainage grounds. It was considered that the development would not result in an unacceptable flood risk and the development was therefore considered compliant with relevant development plan policies and the NPPF.
111. Whilst the applicant has provided evidence that the proposal meets the exception test, the exception test is not applicable. The PPG is clear, the sequential test and the exception test are not required for this current development because it is for a change

of use. The Environment Agency has confirmed that the sequential and exception tests would not apply in this case and that the reference to the exception test in its consultation response was in error.

112. The PPG considers the flood risk issues raised by changes of use. It notes that a change in use may involve an increase in flood risk if the vulnerability classification of the development is changed. In such cases, the applicant will need to show in their flood risk assessment that future users of the development will not be placed in danger from flood hazards throughout its lifetime. Depending on the risk, mitigation measures may be needed. It is for the applicant to show that the change of use meets the objectives of the Framework's policy on flood risk. For example, how the operation of any mitigation measures can be safeguarded and maintained effectively through the lifetime of the development.
113. The proposed change of use application is accompanied by a Flood Risk Management Plan to ensure that the site can be managed appropriately, with evacuation as and when required and installation of temporary demountable flood defences. It includes details of the trigger levels and flood warning system, which will be monitored 24/7, and sets out the responsibilities of the various teams involved. The flood warning triggers are unchanged from those previously consented for the original application and are set at levels that ensures sufficient response time is provided in advance of evacuation and deployment of the flood barrier.
114. The Environment Agency raises no objection to the proposed change of use to a More Vulnerable classification of development, which is appropriate within Flood Zone 3, along with the proposed change of use having no increase in on or off-site flood risk.
115. As requested by the Environment Agency the submitted Flood Risk Assessment and Flood Risk Management Plan would be listed as approved documents should planning permission be granted, to which the development must adhere. Through condition, an updated Flood Risk Management Plan would be required to allow the update of some of the appendices with DUBS specific plans should planning permission be granted as the current version includes plans related to the currently permitted use.
116. The Environment Agency has also provided advice with regard to flood resistance and resilience, and flood warning and emergency response. It states that it has considered the findings of the flood risk assessment in relation to the likely duration, depths, velocities and flood hazard rating against the design flood for the proposal. The Environment Agency agrees that this indicates that there will be a danger for all people (e.g. there will be danger of loss of life for the general public and the emergency services) but states that this does not mean it considers that the access is safe, or the proposals acceptable in this regard. The Environment Agency recommends the Council undertake appropriate consultation with emergency planners and the emergency services to confirm the adequacy of the evacuation proposals. The Council's Emergency Planning/Civil Contingency Team advise they have no major comments to make.
117. Drainage and Coastal Protection officers have considered the proposals and raise no objections noting that the surface water management for this scheme has been previously approved and the scheme is now constructed.
118. The City of Durham Trust has raised concerns regarding flood risk and has sought reassurances that there would be more further changes to external spaces to counter the risk and public users are adequately protected. No external changes are proposed, and any change may require planning permission.

119. Subject to a condition securing approved documents to be adhered to as requested by the Environment Agency, the proposed development would not lead to increased flood risk, both on and off site, and through the use of SUDs would ensure there is no net increase in surface water runoff for the lifetime of the development. The proposal is, therefore, considered to not conflict with CDP Policy 35 and Part 14 of the NPPF with regards to flood risk.

Transport and Highways

120. Paragraph 110 of the NPPF states that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. CDP Policy 21 states that the transport implications of development must be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans. CDP Policy 22 seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City. DNCP Policy T1 relates to sustainable transport accessibility and design and seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.
121. Under the original grant of planning permission matters surrounding transport, highways, accessibility and equality issues were one of the most significant considerations in the determination of the application and drew significant public representation. The matters were however assessed and considered to be acceptable.
122. A Transport Statement (TS) has been submitted with the current application. This seeks to demonstrate that the site is highly accessible on foot, by cycle and public transport to numerous local facilities and residential areas providing future staff, students and visitors with the choice to travel via alternatives modes of transport and minimise trips made by the private car. No design changes are proposed to the local highway network or to access into the site. It has been demonstrated that safe and suitable access can be achieved on to the local highway network as per the previously approved design. There would be no changes to car parking provision in the vicinity of the site which are separate from DUBS but available for users of the building. It has been shown that the proposed change of use would generate fewer vehicle trips both during the network peak hours and throughout the day. The proposed change of use of the building is predicted to generate fewer trips at both peak hours and over the day. The reduction in trips is estimated to be a reduction of 320 trips per day (including -66 to -47 two way trips during AM and PM peak).
123. The TS states that the proposed change of use of the building to higher education would therefore not result in a material impact on the operation of the local highway network and may in fact result in betterment in overall trip generation terms. The parking associated with the prior DCC Office HQ consent is now in situ and would be managed by DCC as a separate entity. The parking would be available for the proposed users of the building but, as it has been demonstrated that the use of the building for F1 a use is likely to generate fewer trips than an office use, there would be no change to the current 2022 baseline conditions on the local highway network as a result of the proposed change of use. The TS concludes that it has demonstrated that safe and suitable access to the proposed development can be achieved for all users and that there would be no unacceptable impacts from the development on the transport network or on highway safety. It states that the proposed change of use accords with both National and Local transport-related policy and concludes that there

are no reasons on highways or transport grounds why the proposed change of use of DCC Office HQ to higher education should not be acceptable.

124. The Highway Authority has no objection to the proposal considering it to be acceptable from a highways perspective and that the trip generation of the proposed use would not materially differ from the existing use. It is considered that the building is located in a location which maximises the potential for use by sustainable modes of transport. The applicant has proposed a Travel Plan which would need to be implemented and incorporated into the University's wider Travel Plan. Parking provision would not alter from that proposed for the original use of the building. Given the sustainable location, this is acceptable.
125. A Travel Plan has been submitted with the application which demonstrates that the site is highly accessible by foot, bike and public transport to local facilities and residential areas. The Travel Plan encourages sustainable and active travel methods and use of the existing traffic-free routes around the City Centre. 50 cycle storage spaces are provided for by the current planning permission, 20 of which are located inside the building to allow bikes to be safely left unattended for longer periods of time while staff are working and students are in classes. Sustainable Travel officers consider the submitted Plan to be appropriate and compliance would be secured through condition.
126. The views of the City of Durham Trust in relation to the transport statement and travel plan have been considered, however, the Highway Authority and Sustainable Travel officers raise no objection. Should further cycle storage be required then this would be subject to a separate planning application. It is considered that the proposed development does not raise new issues in relation to transport and highways and trip generation is predicted to be reduced. It is therefore considered that the current application does not conflict with CDP Policies 6, 21 and 22, DCNP Policy T1 and Part 9 of the NPPF.

Residential Amenity and Air Quality

127. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air or noise pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality and water quality. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely 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. Paragraph 186 of the NPPF advises that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. Paragraph 187 of the NPPF advises that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).
128. CDP Policy 31 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.

129. With regard to noise, the previous assessment of the building in terms found that it was suitable for the office use and did not need any additional mitigation beyond the standard glazing approach proposed. With regard to external plans and the use of the roof terrace in relation to the proximity of residential properties, it was reported that any noise impacts would be minor and likely imperceptible against background noise levels however a condition was attached to the most recent consent to control the capacity of the terrace (163 people) and its permitted hours of use from 7am-11pm. Whilst the Proposed Business School is to be operational 24/7 during term time, this would retain control of use of the roof terrace to previously approved times. With regard to the wider use of the building, it is not anticipated that there would be unacceptable levels of noise at any time of the day or night and the University already operates its existing Business School next to residential dwellings and residential colleges on the main campus without amenity issues and whilst retaining flexible opening hours for students and staff.
130. An updated noise assessment has been submitted which concludes that, given that the change would relate to educational uses and studying which is not a dissimilar environment to that of an office headquarters and as there would be no proposed changes to the use or capacity of the roof terrace, there is no reason to consider that the change of use would result in any new effects. There would be no increase in noise affecting the amenity of the future occupiers and nearby uses and restrictions relating to the hours of use and capacity of the roof terrace would be controlled through condition.
131. Environment, Health and Consumer Protection (Nuisance) officers agree with the conclusions of the submitted noise impact assessment and consider that any conditions regarding noise, such as mechanical plant rating level limits, roof terrace usage hours and occupancy numbers attached to the previous usage be maintained and adhered to. Officers also consider that the development is unlikely to cause a statutory nuisance.
132. Conditions relating to the current planning permission have either been discharged or would remain extant under that permission and it is not considered necessary to replicate existing controls through condition. Irrespective of the possible 24 hour use of the building existing conditions would control any potential impact.
133. Durham City has a declared Air Quality Management Area (AQMA). Within the AQMA there are particular “hotspots” locations where air quality is identified as being at its worst – with New Elvet (in the vicinity of the junction of Church and Hallgarth Streets), Highgate, Gilesgate Bank and on Alexandra Crescent/Sutton Street identified particularly. The application site is not within the AQMA though it is approximately 200m away. Air quality was specifically considered as part of the original planning application and no new issues arise as a result of the current planning application. Environment, Health and Consumer Protection (Nuisance) officers advise that on the basis that the proposed development is now fully constructed and there would no dust or air quality emitting activities associated with construction activity, the development would not increase traffic generation compared to that assessed in the original air quality assessment, and that no energy plant is proposed, it is considered that no further air quality assessment is required.

134. The amenity and pollution related impacts of the amendments have been assessed and are considered to be acceptable, compliant with CDP Policies 6, 29 and 31 and Part 15 of the NPPF.

Other Matters

135. This application is for the change of use of an existing building. No external changes are proposed to it. Harm to designated heritage assets has previously been assessed and found to be acceptable and the current proposal for a change of use raises no new issues. The proposals would not give rise to any additional heritage impact to that previously assessed. Design and Conservation officers have no objections but given the location highlight that any proposed changes to the previously approved lighting strategy need to be considered in the context of impact on the conservation area and night-time setting of the World Heritage Site. In addition, any signage strategy for building would need to be considered in any future application for advertisement consent. No changes are proposed to the lighting scheme approved under the original planning permission.
136. Impacts upon ecology have previously been considered and found to be acceptable. The current proposal raises no new issues and would not give rise to any additional impact to that previously assessed. Ecology officers have considered the proposals and raise no objection. No ecological issues are identified especially given that there are no changes to the lighting arrangements as previously proposed.
137. The site lies within the safeguarding area for the High Moorsley Meteorological Office radar site. CDP Policy 28 states that within safeguarded areas, development will be subject to consultation with the relevant authority and be permitted within the defined Major Hazards Sites where it can be demonstrated that it would not prejudice current or future public safety. Policy 28 also requires that development would not prejudice the safety of air traffic and air traffic services, that there would be no unacceptable adverse impacts upon the operation of High Moorsley Meteorological Officer radar. CDP Policy 28 is not relevant to consideration of the current application given the building has been completed and the end user would not impact on radar operations
138. CDP Policy 29 requires all development proposals to achieve well designed buildings and places and sets out criteria 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. In terms of the sustainability of buildings CDP Policy 29 states that all major new non-residential development will be required to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good'. This application is for the change of use of an existing building and CDP Policy 29 is not relevant to consideration of the current application. The recently completed building however does include a number of sustainable features and has been designed and constructed to a high standard.
139. The application site is underlain with minerals deposits with coal, river sand and gravel under and in the vicinity of the site. CDP Policy 56 seeks to ensure that non-minerals related development that would lead to the sterilisation of mineral resources does not occur unless certain circumstances or exemptions apply. One such exemption is where the application relates to a proposal to a change of use of an existing building as is the case here.
140. Prior to submission of the application the applicant undertook consultation with local County Councillors, City of Durham Parish Council and, a number of community

groups as well as with regional bodies to explain the proposal. The submitted Statement of Community Involvement states that the theme of questioning broadly related to the scope of proposed changes, the use of public spaces and key routes, the management of flood risk and the highways impact. Additional questioning also related to the use of lighting and the potential impacts on residential amenity. There were no objections or concerns raised during this meeting to the change of use of the building in principle.

141. The socio-economic and city centre impact were considered at the time of the original application. It was concluded that socio-economic benefits would, it was considered, emerge because of the development. The current application is accompanied by a socio economic report which outlines the economic impact of the relocation of Durham University. The report demonstrates that there would be economic benefits associated with the proposed change of use which would also contribute towards the creation of a lively and vibrant city centre. Socio-economic benefits would include: direct employment by the University, staff and student spending which in turn supports other employment in the City, supplier support through the purchase of goods and services by the University, and the long-term productivity impacts arising from DUBS graduates. In addition, the proposals would support the Business School to remain competitive within the global higher education market and remain a presence within Durham.
142. The City of Durham Trust has raised a number of matters which have been addressed in this report. In addition, the Trust queries the future of art related to the County Council which has been installed in etched glass panels. The current application is for a change of use of the building and not for external alterations to the building. The condition on the extant planning permission relating to art work has not been discharged, and it is considered appropriate that this condition is included on the proposed development should planning permission be granted.

Public Sector Equality Duty

143. 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.
144. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified. The current proposal does not give rise to new issues.

CONCLUSION

145. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
146. The principle of the development proposal as an office is established under the original planning permission and more recent variation of condition applications. Furthermore, construction of the building has been completed. The current planning application seeks to the change use of office headquarters (sui generis) to higher education (Durham University Business School) (Use Class F1a). No exterior alterations are proposed as part of the current application.

147. Consideration has been given to the principle of the development as an educational facility and impact of the proposals in terms of flood risk and drainage, transport and highways, residential amenity and air quality and other matters and, subject to appropriate conditions where appropriate, the impacts are considered to be acceptable.
148. In terms of flood risk the proposed change of use would be from a 'less vulnerable use' to a 'more vulnerable' use. There is no requirement for a sequential or exceptions test to be undertaken given the development is for a change of use. Nevertheless, the applicant has provided evidence that the proposal meets the exception test. The proposals have been considered and subject to condition are acceptable. Consideration has been given to transport and highways. The trip generation of the proposed use would not materially differ from the existing use and there are no objections to the proposed change of use. Residential amenity and air quality have also been considered concluding that the change of use would result in any new effects.
149. The proposal would permit the approved floorspace to be used by the University thus satisfying its aspiration for a new Business School within an accessible city centre location. The socio-economic benefits associated with the proposal would benefit not only Durham University but also County Durham and the wider North East area both individually and as part of the wider programme of investment in Durham City. Furthermore, the introduction of students at Freemans Place would add to the vibrancy of the northern part of Durham City Centre, acting as an anchor for pedestrian footfall and spending within the City.
150. The proposal has generated some public interest with representations reflecting the issues and concerns of those making representations. These have been weighed along with other responses including those of statutory consultees that have raised no objections to the scheme based on the submitted details and assessments and subject to conditions were appropriate. Whilst mindful of the public representations it is considered that these are not sufficient to outweigh the planning judgement in favour of the proposed development.
151. It is considered that the proposed development accords with relevant policies of the County Durham Plan, the Durham City Neighbourhood Plan and relevant sections of the NPPF.

RECOMMENDATION

152. That the Committee **APPROVE** the application 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 and documents listed below:
 - Site Location Plan Rev P3 dated 17/02/2022

- 'DCC HQ - Change of Use Flood Risk Assessment' (70090555_FRA01, January 2022) produced by WSP
- 'Durham University Business School Flood Risk Management Plan' (70090555_FRMP04, June 2022) produced by WSP
- 'Durham University Business School Travel Plan' (April 2022 (Rev 4)) produced by Optima

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with County Durham Plan Policies 6, 9, 16, 21, 22, 28, 29, 31, 35, 56, City of Durham Neighbourhood Plan Policy T1 and Parts 2, 6, 7, 8, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. Notwithstanding the requirements of Condition 2, prior to first occupation of the building the document entitled 'Durham University Business School Flood Risk Management Plan' (70090555_FRMP04, June 2022) produced by WSP shall be updated and submitted to the Local Planning Authority for approval. Thereafter the development must be undertaken and subsequently occupied and managed in full accordance with the approved details.

Reason: To prevent the increased risk of flooding, both on and off site for the lifetime of the development and in accordance with County Durham Plan Policy 35 and Part 14 of the National Planning Policy Framework.

4. Within 6 months of the occupation of the building, details of a scheme of public art shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme must include details of the timescales for the installation/completion of the agreed public art scheme.

Reason: In interests of good design, in accordance with County Durham Plan Policy 29 and Part 12 of the National Planning Policy Framework.

5. Any operational phase plant shall ensure that the rating level of noise emitted from the operational plant on the building shall not exceed a rating level of 39 LAeq (1 hour) between 07.00- 23.00 and 27dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014.

Reason: In the interests of the amenity of the area having regards to County Durham Plan Policy 31 and Part 15 of the National Planning Policy Framework.

6. The roof terrace space hereby approved shall not be used or occupied outside of the hours of 7am to 11pm except in an incidence where access is needed for essential maintenance purposes.

Reason: To limit the potential noise impact of occupation of the roof terrace in the interests of residential amenity having regards to County Durham Plan Policy 31 and Part 15 of the National Planning Policy Framework.

7. The occupancy level of the roof terrace space hereby approved shall be limited to no more than 163 persons.

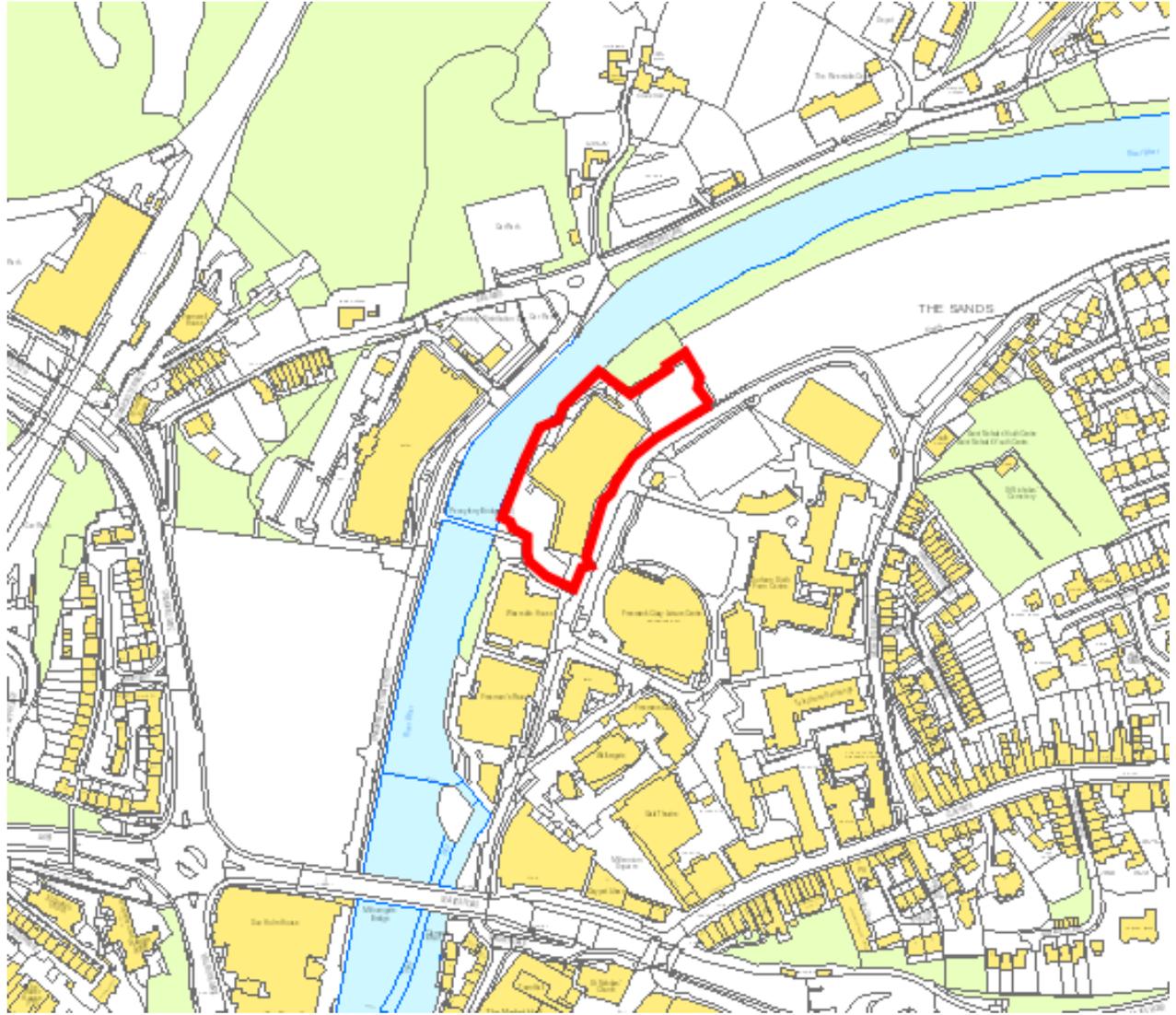
Reason: To limit the potential noise impact of the occupation of the roof terrace in the interests of residential amenity having regard to County Durham Plan Policy 31 and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework
- National Planning Practice Guidance
- The County Durham Plan
- Durham City Neighbourhood Plan
- Statutory, internal and public consultation responses



Planning Services

DM/22/01005/FPA

Change of use of office headquarters (sui generis) to higher education (Durham University Business School) (Use Class F1a)

Durham County Council, The Waterside Building, Riverside Place, Durham, DH1 1SL

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Comments

Date
June 2022

Scale
Not to scale