

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/22/00139/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Proposed 4 Bed HMO with accompanying communal living area and kitchen in existing loft spaces. A dormer link will be formed to connect the two loft spaces. (amended proposal)
<b>NAME OF APPLICANT:</b>	Mr Oliver Morgan
<b>ADDRESS:</b>	The Beauty Spot, Saddlers Yard, Saddler Street, Durham, DH1 3NP
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	John Russell (Senior Planning Policy Officer) Tel: 03000 263 428 Email: john.russell@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is currently a vacant first floor retail unit contained within the loft space of the Beauty Spot, Saddlers Yard, Saddler Street, Durham which is located in the centre of the Durham City. The site is also located within the Durham City Centre Conservation Area and lies within the inner setting of the UNESCO World Heritage Site.

#### The Proposal

2. Planning permission is sought for the change of use of the existing loft space to a create a 4 bed HMO along with the erection of an associated link dormer.
3. Upon submission of the application there was some discussion surrounding the extent to which the building might be considered Listed or curtilage Listed. As a consequence, the Council's Design and Conservation Section has undertaken appropriate investigations in order to determine whether or not the application site forms part of the grade II listed building at No. 68 Saddler Street. In this regard it is noted that the listing description for No. 68 Saddler Street mentions the rear gable-end wing which indicates the building was surveyed at the time of listing and does not reference the subject building. It has therefore been concluded that the application property could not be deemed as curtilage listed given how tightly developed the rear of Saddler Street is with a wide mixture of building ages, types and uses compacted into a relatively small area. As such listed building consent is not considered to be required.
4. Various other minor alterations are proposed to the external elevations of the property and these relate principally to the creation of the dormer extension and the introduction

of mechanical ventilation. All other works required to facilitate the extension are internally located to create the 4 bedrooms, kitchen and living area.

5. The application is reported to the Committee at the request of the Parish Council who consider that the proposal conflicts with the development plan to the extent that the application should be refused without delay. A full summary of those objections are included in the appropriate section of this report.

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## **PLANNING HISTORY**

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6. The application site has no planning history.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.

13. 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.
14. 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.
15. 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.
16. NPPF Part 15 - Conserving and enhancing the natural environment. Planning policies and decisions should contribute to and enhance the natural and local environment.
17. NPPF Part 16 - Conserving and enhancing the historic environment. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

18. 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; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

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

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

19. The County Durham Plan (CDP) was adopted by Full Council on the 21<sup>st</sup> October 2020. The following policies of the CDP are considered relevant to the determination of this application.
20. Policy 6 Development on Unallocated Sites states that the development of sites within the built up area that are not allocated in the plan or in a neighbourhood plan will be permitted provided they accord with all relevant development plan policies and meet

specific criteria in relation to existing permitted uses, coalescence of settlements, loss of land with identified value such as in relation to ecology or recreation, is appropriate, is not prejudicial to highway safety, has good access to sustainable modes of transport to relevant services and facilities, does not result in the loss of the settlements last community building, minimises vulnerability and provides resilience to impacts resulting from climate change, maximises the effective of previously developed land and where appropriate reflects priorities for urban regeneration.

21. 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
22. 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.
23. 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.
24. 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 to have regard to Parking and Accessibility Supplementary Planning Document.
25. 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.
26. 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.
27. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

28. Policy 45 (Durham Castle and Cathedral World Heritage Site) seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value (OUV) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.

#### Neighbourhood Plan

29. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
30. Policy S1: Sustainable Development Requirements of all Development and Redevelopment 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.
31. 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.
32. Policy H1: Protection and Enhancement of the World Heritage Site requires development proposals within the Neighbourhood to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views. its Outstanding Universal Value and to support the current adopted management plan.
33. Policy H2: The Conservation Areas expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.
34. Policy E3: Retail Development states that development will be supported where it contributes to the lively and vibrant City Centre and enhance the character and attractiveness of the City Centre. It further states that development that provides residential accommodation in upper floors of commercial properties will be supported as long as they do not have a negative impact on retail, commercial and tourism activities and the general amenity of neighbouring properties and residential amenity including noise impact.

*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 RESPONSES:**

35. Highway Authority raise no objection, confirming that the proposal raise no concerns in relation to highway safety.
36. The City of Durham Parish Council have raised objection to the application and query whether or not the building is Listed, and that limited information has been presented to demonstrate sufficient bin and cycle storage would be provided. Concerns are also raised regarding lighting and ventilation and lack of cross section to provide an indication of ceiling heights. No information has been provided as to how the construction phase would be managed.

### **INTERNAL CONSULTEE RESPONSES:**

37. Spatial Policy highlight various national and local policies that are relevant to the proposal. These being policies 16, 44 and 45 of the CDP and Parts 12, 15 and 16 of the NPPF.
38. HMO officer confirms that the proposed dwelling will form a 4 bed 2 storey house in multiple occupation and whilst the property will not be required to be licensed under Part 2 of The Housing Act 2004, they have provided advice and guidance to ensure compliance with all relevant amenity and fire safety standards for an HMO of this type. These include a full Fire Risk Assessment must be carried out for the property and a suitable means of escape and appropriate other fire precaution facilities and equipment must be provided of such type, number and location as is considered necessary, to the satisfaction of Durham County Councils and the Fire Authority. Regarding Space and Other Standards, each bedroom/study is required to be a minimum of 6.51m<sup>2</sup>, kitchens used by 1-5 persons shall be a minimum of 7m<sup>2</sup> and living rooms used by 1-5 persons shall be a minimum of 11m<sup>2</sup>.
39. HMO Data has confirmed that the application site does not benefit from any exemption for HMOs. In addition, within a 100m radius of, and including the application site, 68.5% of properties are Class N exempt student properties as defined by Council Tax records. There is a single approved application, reference DM/21/00104/FPA at 7 - 8 Silver Street, Durham, which has not yet implemented, and this would increase the number of HMOs to 70.4%.
40. Environmental Health (Nuisance Action Team) requested that a noise assessment be undertaken and the results have been reviewed by the officer. It has been recommended that windows in the elevations facing the courtyard should be non-opening to preserve the level amenity currently enjoyed. In addition, the drawings lack detail in relation to the acoustic attenuation that will be provided by the ventilation systems shown; section 5 of the noise assessment details acoustic mitigation measures that will be required, including detail in relation to ventilation methods and an appropriate condition should be included if approval is recommended.
41. The Council's Design and Conservation Section offers no objection to the application and consider that the proposal accords with the requirements of policies 44 and 45 of the NPPF, policies H1 and H2 of the DCNP, Part 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 subject to the inclusion of pre-commencement conditions requiring the submission, agreement and subsequent implementation of the exact specification for the ventilation system and window openings.

42. The Council's Building Control officer advises that the application demonstrates that it is possible to provide mechanical ventilation and a means of safe exit in the event of fire (eg sprinkler system). However, further details and calculations would be required as part of a building regulations application and any recommendation for approval of this application would include an appropriately worded informative in this regard.
43. The Council's Ecology Officer offers no objection to the application subject to the inclusion of a planning informative relating to bats be attached to any recommendation for approval.
44. Durham Constabulary have noted that the design and access statement the scheme is designed in accordance with Secured by Design Homes 2014 and that the development be carried out in accordance with this guidance;
  - Secured by Design Homes 2019 guide can be found at the following location: <https://www.securedbydesign.com/guidance/design-guides>
  - It is recommended that all doorsets allowing direct access into the building are certificated to STS 202 Issue 6:2015 Burglary Rating 2 (or equivalent), (Without compromising the means of escape in case of fire). An access control system is recommended, with key fob entry or similar with self-closing doors.
  - Each individual private bedroom door is advised to be secured against unauthorised entry recommended to certification BS 8621:2017 (or equivalent). (Without compromising the means of escape in case of fire).

#### **PUBLIC RESPONSES:**

45. The application has been advertised by means of site notice, press advert and by notifying neighbouring residents by letter.
46. The City of Durham Trust object to the application based on insufficient information having been provided, a perceived negative impact on the retail unit on the ground floor and the lack of sufficient bin and cycle storage. In addition, they consider that there is no clear demonstration of the need for more student accommodation or whether the development is necessary for supporting retail use. No public benefit is shown. A 1800mm head height is only shown for the communal lounge/kitchen and bedroom 4. It is not possible to verify whether these proposals meet national space standards when ceiling height is taken into account for all the rooms. The relevant standard is NDSS paragraph 10(i) which requires that the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area. Saddlers Yard can be secured from Saddler Street by door and gate. The management arrangements are not submitted and if the yard is locked outside of trading hours, means of access needs to be shown. The route for the emergency escape through No 68 saddler Street is not shown.

#### **APPLICANTS STATEMENT:**

47. The proposal is for a 4 bed HMO, along with accompanying communal living space and kitchen. The dwellings have been designed in accordance with standards set out in: Durham City Plan & DCC Sustainable Design SPD where feasible. As the building is within the Durham City Conservation Area, it is important to ensure the form of the existing building is maintained as much as is reasonably practicable, in order to mitigate the impact on the local vernacular. All detailing, such as stonework, openings etc. are to be retained and cleaned/repaired where necessary.



## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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48. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on the World Heritage Site, Conservation Area, surrounding Listed Buildings and Non Designated Heritage Assets, impact on amenity of neighbouring occupiers including commercial uses and future residents, highway safety and ecology.

### Principle of Development

49. The County Durham Plan (CDP) was adopted in October 2020 and, along with the City of Durham Neighbourhood Plan represents the up to date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP and the DCNP.
50. The NPPF is a material planning consideration. 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.
51. The proposal is for a 4 Bed HMO within the loft space of the existing building including the formation of a dormer link at the first floor of the Beauty Spot, Saddler Yards, Saddlers Street, Durham. The application has been subject to minor amendment since its original submission to demonstrate compliance with the NDSS and that the building can satisfactorily accommodate building regulations requirements to the deliver mechanical ventilation and means of escape.
52. Policy 16 states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for a change of use to a Class C4 HMO where planning permission is required, will not be permitted if, in accordance with part a), including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from Council tax charges (Class N Student Exemption). It further states in part b) that a change of use will not be permitted where existing unimplemented permissions for HMOs within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10 per cent of the total properties within the 100 metres area; or, in accordance with part c), less than 10 per cent of the total residential units within 100 metres are exempt from council tax charges (Class N) but the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.
53. The policy further states in part i) that changes of use to HMO would not be resisted where an existing high proportion of residential properties within 100 metres are



exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.

54. From assessing the percentage in HMO use within 100 metres of the site, it is confirmed that 68.5% are in HMO use and that this increases to 70.4% when planning permissions capable of implementation are taken into account. Whilst this is greater than the 10% stated in policy 16 it is noted that given the site is within the primary shopping area of Durham City, it falls to be considered under part 3 i) of Policy 16 which supports changes of use in such circumstances. The principle of development in this location is therefore considered acceptable and would accord with policy 16 of the CDP.
55. Whilst the development would result in the loss of the first-floor retail space, which is regrettable, it is noted that the unit has no active frontage and that there are a number of vacant units within the city centre at this time. As such it is considered inappropriate to insist on its retention for this purpose particularly given policy 9 of the CDP supports residential uses within town centre locations.
56. Given the development proposes the conversion of the upper floor of the property to student accommodation in what is a highly sustainable location with ready access to the university it is deemed acceptable in principle, subject to other considerations below.
57. Whilst it is noted that the City of Durham Trust raise concern that the applicant fails to demonstrate any additional need for further HMOs within the city centre, it is nevertheless noted that there is no policy requirement in this regard. Consequently, no weight can be attached to this matter in the determination of this application.

Impact on the character and appearance of the World Heritage Site (WHS), Conservation Area (CA), surrounding Listed Buildings (LB) and Non-Designated Heritage Assets (NDHA)

58. Local Authorities have a duty to preserve or enhance the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 of the same Act requires a similar duty to preserve or enhance Listed Buildings or their setting or any features of special architectural or historic interest which it possesses. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
59. In line with this duty, Policy 44 (Historic Environment) of the CDP seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
60. Policy 45 (Durham Castle and Cathedral World Heritage Site) of the CDP seeks to ensure that developments within the World Heritage Site (WHS) sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value (OUV) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.
61. Both approaches display a broad level of accordance with the aims of Part 16 of the NPPF which states that when considering the impact of a proposed development on

the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

62. Neighbourhood Plan policies H1 and H2 relate to the World Heritage Site and Conservation Areas respectively, however, both set that policy test slightly higher in that they require development proposals to both sustain and enhance the special interest and significance of both the WHS and CA, applying a number of criteria where relevant.
63. Policy 29 is also relevant and relates to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
64. The Council's Design and Conservation Section raised initial concern at the potentially listed status of the application building and the connection to the grade II listed building at No. 68 Saddler Street which was echoed by the City of Durham Parish Council and City of Durham Trust. However, based upon the additional information provided by the applicant and a further desk-based assessment by the Design and Conservation Officer the LPA is satisfied that the subject building is not listed and does not form part of the grade II listing at No 68 Saddler Street.
65. Specifically, with regard to the south block to the rear of No 68 Saddler Street, it is noted that the area is part of the bishop's borough (and area of many tenements in private hands with some tenements being traced back to late C13) No. 68 was possibly one such building as 2 former houses of the C18, the rear dwelling access via a vennel. On the Ordnance Survey map No 68 Saddler Street and the subject building appear to form a single long continuous building. However, this is misleading and not the case. Whilst they are subject to physical connection this is via a modern glazed link extension infilling what looks like former historic yard space. This link extension is possibly part of the extensive remodelling that took place in the early 1990s. Based on their respective built forms and constructions they are evidentially 2 different and separate buildings with the end of No 68 clearly distinguishable.
66. In light of the above, it is considered that the extent of the listing for No 68 relates to the main front 4-storey 1-bay block that is then taken back as a full width gable-end wing, part rendered, and incorporating a sash window in an original opening, and a blocked attic window that can clearly be seen. The listing description for No 68 mentions the rear gable-end wing and indicates that the rear of the building was surveyed at the time of listing, and it does not reference the building which is the subject of this application. Based on the above the subject building appears to be of a much later construction (perhaps C20) compared to the C18 listed building.
67. It is therefore considered that the building could not be deemed curtilage listed given how tightly developed the rear of Saddler Street is with a wide mixture of building ages, types and uses compacted into a relatively small area. The subject building is not directly associated with the principle listed building in a physical or historical sense, is not in ancillary use to it, and they are under different ownerships.
68. The applicant has sought to keep external works to a minimum in order to retain the existing fabric of the building and as such most of the works required to facilitate the

change of use are internal. With this in mind it is considered that the development would not have any adverse impact upon any Listed Building and as such the development accords with policy 44 of the CDP and Part 16 of the NPPF.

69. The City of Durham City Parish Council and the City of Durham Trust both consider the development to have a detrimental impact upon the special historical value of the CA and WHS.
70. In terms of those external alterations the proposal includes the installation of a dormer extension to link two areas of roof space affected by the conversion. The proposed dormer roof extension is low scaled in comparison to the size and massing of the respective roofs, and it has been designed to give clear subordination to minimise the impact. The surrounding roofscape is mixed with horizontal and vertical forms, steep and shallow dual pitched roofs, mono-pitched roofs, and flat roofs visible at different scales, along with a variety of dormer roof extensions, and rooflight interventions. The proposed dormer would not be considered to harm this character as the linear plan form of the respective buildings echoing the historic burgage plot patterns would remain and the traditional dual pitched roof forms sustained. The provision of a natural slate roof covering and natural slate cheeks would help to visually bind the dormer into two roofs. Roof-lights are fairly commonplace within the surrounding roofscape, and given the back land location, the proposed rooflights would be considered to cause no adverse effects. In light of the above it is considered that the proposal would accord with the aims of policies 44 and 45 of the CDP, Part 16 of the NPPF and S66 and S72 of the Planning (Listed Building and Conservation Areas) Act 1990 in that the proposal would deliver a slight enhancement to the heritage assets identified through the reintroduction of a positive use to that part of the building.
71. Whilst consideration of the impact of the development upon residential amenity is considered in more detail elsewhere in this report, it is nevertheless important to note that in order to secure an appropriate level of amenity for future residents of the HMO and that the adjacent commercial use is not unacceptably restricted as a result of complaint, the Council's Environmental Health Section has advised that those windows within the elevation facing the Saddlers Yard courtyard should be non-opening. This could be secured through planning condition. However, to do so would potentially restrict the potential for natural ventilation and in order to ensure that the unit benefits from appropriate provision in this regard the applicant has confirmed intention to install mechanical ventilation. It is understood that this would require the installation of airbricks to the walls and roof and the applicant has provided updated elevation plans showing their position to which neither the Council's EHO or Design and Conservation Section have raised any fundamental objection. However, precise detail of these features should be secured through planning condition. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of policies 44 and 45 of the CDP, Part 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990 in that the proposal would deliver a slight enhancement to the heritage assets identified through the reintroduction of a positive use to that part of the building.
72. With regard to policies H1 and H2 of the DCNP the latter requires proposals to enhance the conservation area and provides a set of criteria to consider in this regard, outlining where such criteria are relevant. The stated criteria is as follows:
  - a) sustaining and enhancing the historic and architectural qualities of buildings, and
  - b) sustaining and enhancing continuous frontages, street patterns, boundary treatments, floorscapes and roofscapes; and
  - c) respecting historic boundaries and curtilages;

- d) avoiding demolition of assets of historic and/or architectural interest which contribute to the character and appearance of the area; and
- e) avoiding loss of, or harm to, an element of an asset which makes a positive contribution to its individual significance and that of the surrounding area; and
- f) avoiding loss of open space that contributes to the character and appearance of the surrounding area; and
- g) protecting important views of the Durham City Conservation Area from viewpoints within and outside the Conservation Area; and
- h) taking opportunities to open up lost views and create new views and vistas; and
- i) having appropriate scale, density, massing, form, layout, landscaping, and open spaces; and
- j) having materials, detailing and lighting appropriate to the vernacular, context and setting; and
- k) using high quality design sympathetic to the character and context of the local area and its significance and distinctiveness, and to the immediate landscape; and
- l) avoiding adding to the cumulative impact of development schemes which dominate either by their scale, massing or uniform design.

73. Proposed changes to the external appearance of the building are limited and it is not considered that the development would have any impact to the contribution that the building currently makes to the conservation area. The introduction of a positive use to parts of the building which are currently unused would secure its long-term maintenance. As such, given the relatively small-scale nature of the proposal and the fact that the use of appropriate materials will be secured through planning condition, points i - l are considered to be met. In respect of points c, d, f and h it is considered that these are not relevant in the determination of this application.
74. With regards to Policy H1 of the DCNP, this seeks to ensure development proposals throughout Our Neighbourhood sustain, conserve and enhance the setting of the World Heritage Site and provides a set of criteria to consider in this regard which are as follows:
- e) carrying out an assessment of how the development will affect the setting of the World Heritage Site, including views to and from the World Heritage Site; and
  - f) protecting important views; and
  - g) taking opportunities to open up lost views and create new views and vistas.
75. The proposal would not be visible in any important views towards the WHS and as such the development would comply with criteria 'f', and it is not considered that criteria 'e' and 'g' are relevant in the determination of this application.
76. In light of the above it is considered that the significance and setting of the heritage assets identified, both designated and non-designated, would be either sustained, conserved or enhanced where appropriate. As such, the proposals are deemed to accord with the principles set out in Part 16 of the NPPF, CDP policies 44, 45, 16 3f) and 29, Neighbourhood Plan Policies H1 and H2 and sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 subject to the imposition of those planning conditions identified.

#### Impact on amenities of neighbouring occupiers and future residents

77. Policy 29 requires that all development achieves well designed buildings and places having regard to supplementary planning documents and: e) provide high standards of amenity and privacy and minimises the impact of development upon the occupants or existing adjacent and nearby properties. Distance standards are outlined within the Residential Amenity Standards Supplementary Planning Document (SPD).

78. Policy 31 states 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. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance, or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and / or community facilities do not have any unreasonable restrictions placed upon them as a result.
79. Policy 16 states that development will only be permitted where it provides acceptable arrangements for bin storage and other shared facilities. Criteria 16-3g) states that the applicant is also required to show the security of the building and its occupants has been considered, along with that of neighbouring local residents.
80. The City of Durham Trust raise concern that the proposal fails to meet minimum space standards as set out in the NDSS citing limited ceiling heights in some of the rooms. Detailed floor plans have been submitted indicating that all room and shared areas are of appropriate size in line with HMO licencing requirements. The layout has been amended to ensure all bedrooms are NDSS compliant and the agent has confirmed that the internal heights of rooms is 2670mm, reducing slightly to 2400mm in the areas that will be the proposed Kitchen/ Living and Bedroom No. 4. These are also viewed as being compliant with space standards and requirements.
81. A noise assessment was submitted in support of the application which demonstrates that, with windows closed the use of the courtyard area by the neighbouring café would not have a detrimental impact internally to residents of the HMO. In addition, it provides suggested measures that could be incorporated within the design of the HMO. The Council's Environmental Health Officer has reviewed that assessment and offers no objection to the application subject to a condition which requires all windows facing the courtyard in Saddlers Yard to be non-opening as per the conclusion of the assessment and that other mitigation measures are implemented prior to first occupation. As already noted, this will require alternative means of ventilation to which the applicant has agreed to provide via mechanical solution, the precise details of which will be secured through planning condition and the Council's EHO has no objections to this approach. In addition, it has also been confirmed that a sprinkler system would be installed to provide a safe means of escape.
82. The amended floor plans submitted show that bin storage will be provided internally by the entrance to the property and an updated Design and Access Statement advised that cycle storage will be provided at the lower level of the stairwell. This had been raised as a concern in objection by both the City of Durham Trust and the Parish Council. In order to maintain amenity and character and appearance of the area, a condition is proposed to be included to prohibit the storage of cycles and bins outside the property.
83. Durham City Parish Council and the City of Durham Trust also raise objection to the application citing concerns that the instruction of the residential use would have a harmful impact upon the adjacent retail units. As noted, a scheme of appropriate sound attenuation could be secured via planning condition to ensure there would be no adverse impact from noise and disturbance, and basic details in this regard have been provided to demonstrate an acceptable solution could be achieved. Full details would be secured through planning condition.

84. Given concern raised by City of Durham Trust regarding the construction phase and to protect the amenity of neighbouring properties it is considered appropriate to apply further conditions requiring the submission, agreement and implementation of a construction management plan and restriction hours of working.
85. Durham Constabulary have noted that the design and access statement the scheme is designed in accordance with Secured by Design Homes 2014 and offer no objection to the application. The applicant will be advised by way of an informative to the most up to date Secured by Design Homes guidance, along with the recommendations of Durham Constabulary.
86. In light of the above it is considered that the proposed development is acceptable in terms of the impact of existing and future residents subject to the conditions stated and would accord with the requirements of policies 16, 29 and 31 of the CDP, policy S1 of the Neighbourhood Plan and Part 15 of the NPPF.

#### Parking, Access and Highway Safety

87. Policy 16 of the CDP requires development to demonstrate that the quantity of cycle and car parking provided has regard to the Council's Parking and Accessibility Guidelines. Policy 21 of the plan has similar requirements in relation to cycle parking, and also states that development should provide appropriate, well designed, permeable and direct routes for walking, cycling so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. It further requires that development ensures the creation of new or improvement to existing routes and facilities do not cause unacceptable harm to the natural, built or historic environment.
88. As already noted, the site is centrally located with ready access to a range of shops, services and the university campus. There are ample opportunities for access to public transport as you would expect from a city centre location, with direct routes for walking and cycling, in accordance with policy 21. As part of the proposal, secure cycle parking is to be provided within the building and whilst there is no in curtilage car parking provision this is not considered unacceptable given the city centre location and the Highway Authority raises no objection to the application in this regard. The proposal is therefore considered to accord with the aims of policies 16 and 21 of the CDP, T1 of the DCNP and Part 9 of the NPPF.

#### Ecology and Impact Upon Protected Species

89. LPAs have a legal duty to European Protected Species (EPS) when determining planning applications and must have regard to the Habitats Directive in the exercise of its functions. EPS, such as bats, are afforded the highest level of protection under the Habitats Directive. In assessing case law on this matter, the Supreme Court ruling associated with R (Morge (FC)) v Hampshire County Council [2011] UKSC 2 comments that an LPA is not expected to duplicate the licensing role of Natural England. The ruling further states that an LPA should only refuse planning permission where a criminal offence relating to EPS is likely to result from the development and where a licence from NE is unlikely to be granted. In all other cases EPS should not present a bar to planning permission.
90. The Council's Ecology Section has reviewed the proposal and raises no objection to the application subject to the inclusion of the standard informative relating to bats should planning permission be granted.

91. Policy 27 of the CDP requires new residential development to be served by a high speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located within the centre of Durham City and surrounding by a mix of residential and commercial properties. Similar requirement in terms of broadband connectivity would also apply to these uses and broadband connectivity unlikely to be unduly restricted in this wider context. As such it does not appear that there any significant constraints to delivering the connectivity in accordance with the requirements of policy 27 although the submission and agreement of precise detail in this regard could be secured through planning condition. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policy 27 of the CDP.

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## CONCLUSION

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92. The development is considered acceptable in principle and would accord with the requirements of Policy 16 3i) of the CDP as although 70.4% of properties within 100 metres of the site are Class N exempt from Council Tax as being wholly occupied by students or are subject to extant planning permission for a change of use to HMO, this is a result of these being predominantly commercial. In addition, it is considered that the development could be satisfactorily accommodated without adverse impact upon residential amenity, adjacent occupiers, the vitality and viability of the retail centre or highway safety in accordance with the aims of policies 16, 21, 29 and 31 of the CDP, policies E3, S1 of the DCNP and Parts 9, 12 and 15 of the NPPF.
93. The proposal is also considered to accord with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Policies 44 and 45 of the CDP, Policies H1 and H2 of the DCNP and Part 16 of the NPPF in that it would preserve, sustain and enhance the special historic value, significance, setting and character of the CA, WHS and nearby Listed Buildings subject to the conditions stated.

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## RECOMMENDATION

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That the application be **APPROVED** 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) 16, 21, 29, and 31 of the County Durham Plan and Parts 8, 9 11 and 12 of the National Planning Policy Framework.

3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all window, walling (including airbricks/tiles) 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.

4. Windows in all elevations of the development hereby approved facing Saddlers Yard shall be non-opening.

Reason: To protect the amenities of residents and the occupiers of adjacent commercial properties in accordance with policies 9 and 31 of the County Durham Plan.

5. No development shall commence until precise details of all mechanical ventilation have been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in full accordance with the detail agreed.

Reason: To protect the amenities of residents in accordance with the aims of policy 31 of the County Durham Plan.

6. Ensure all sound attenuation measures detailed in the noise assessment produced by LA Environmental Consultants entitled 'Conversion to Residential at The Beauty Spot Saddlers Yard, Durham' reference LAE1181.1 dated 12 May 2022' are fully implemented prior to the beneficial occupation of the development and permanently retained thereafter

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required as a pre commencement condition to ensure that an appropriate scheme is agreed and can be implemented.

7. No development shall take place until a scheme of noise mitigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include sufficient measures to ensure the following noise levels are achieved.
  - 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 beneficial occupation of the development and shall be permanently retained thereafter.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required as a pre commencement condition to ensure that an appropriate scheme is agreed and can be implemented.

8. 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:
  - i. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  - ii. Details of methods and means of noise reduction/suppression.
  - iii. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

- iv. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
- v. Designation, layout and design of construction access and egress points.
- vi. Details for the provision of directional signage (on and off site).
- vii. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
- viii. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
- ix. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
- x. Routing agreements for construction traffic.
- xi. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- xii. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- xiii. Management measures for the control of pest species as a result of demolition and/or construction works.
- xiv. 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.

9. There shall be no storage of bins or cycles outside of the areas indicated on Drawing No. approved plans and Design and Access Statement.

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.

10. No development shall commence 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. 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 0830 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.

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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.

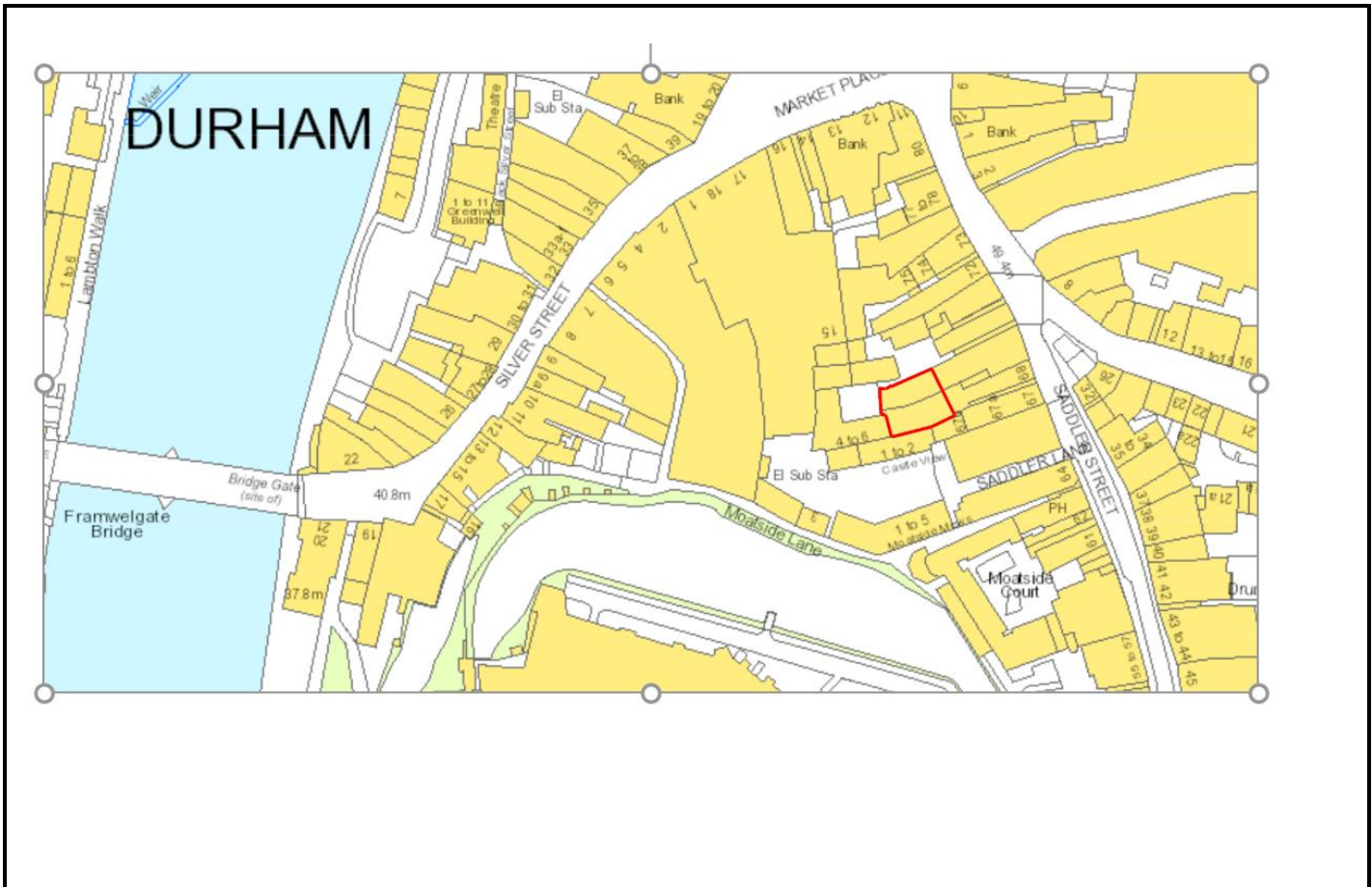
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (Adopted 2020)

Durham City Neighbourhood Plan

Statutory, internal and public consultation responses



**Planning Services**

Proposed 4 Bed HMO with accompanying communal living area and kitchen in existing loft spaces. A dormer link will be formed to connect the two loft spaces. (amended proposal), The Beauty Spot, Saddlers Yard, Saddler Street, Durham, DH1 3NP

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<b>Comments</b>	
<b>Date</b>	27 <sup>th</sup> June 2022