



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/00032/FPA
Full Application Description:	Demolition of building and structures and the erection of a mixed use building comprising uses within Use Class E 'Commercial, Business and Service' and Sui Generis 'Drinking Establishments and Venues for Live Music Performances and Events' with ancillary facilities, provision of a roof-top terrace with external seating and associated facilities
Name of Applicant:	Mr Neill Winch (STACK Limited)
Address:	9A Newgate Street, Bishop Auckland, DL14 7EP
Electoral Division:	Bishop Auckland Town
Case Officer:	George Spurgeon (Senior Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to no. 9 – 11 Newgate Street which is located in the town of Bishop Auckland, to the south west of the County. Newgate Street forms a long and straight shopping and service street within the town centre, the site is located to the northern end of the street close to the Market Place. The site lies within the Bishop Auckland Conservation Area and within the Primary Shopping Area of the town centre. As such the surrounding area is predominantly commercial, however 18no. housing association flats are located approximately 10.5m to the rear of the site (60 Kingsway).
2. The site and existing building also feature in the setting of the rear of 1a & 1b Market Place (Auckland House) which is Grade II listed and the former headquarters of the Deggart's department store chain. The application site also

plays a role in the setting of No.18 Newgate Street (former Yorkshire Bank) which is Grade II listed and lies opposite the site.

3. The site is rectangular in shape and measures approximately 747m² in area. To the southern portion of the site a gap is where an earlier building was sited, this gap interrupts an otherwise continuous frontage. The vacant building was the home of Mothercare until the building suffered structural defects and needed to be demolished. Steel bracing structures are present on the site, installed to provide structural stability following the collapse of the previous building. The cleared site has now stood vacant for over 10 years and is currently screened by hoardings. The north of the site is occupied by an interwar building constructed as part of a regional department store chain and most recently occupied by Fawcetts Butchers and WH Smith.
4. A service yard is located to the rear of the site which provides direct vehicle access to the site. This service area also provides vehicle access to the residential Housing Association flats and other commercial premises.

The Proposal

5. This application seeks full planning permission for the demolition of the remaining building on site and the removal of the steel bracing structures. A new three storey building is then proposed to be erected to provide a mixed-use leisure development, operated by 'STACK' an established regional operator of mixed-use leisure development. The site is currently owned by the Council but will be leased to STACK.
6. The proposed use would comprise a mix of local independent street food traders and bars, as well as space that will host live music, entertainment, community and leisure, health, and fitness events. There is intended to be a wide variety of tenants such as a coffee shops, street food traders and food kiosks. The building would be utilised to provide a space for social, cultural and community events that could include quizzes, children's events, comedy events and productions.
7. The development would provide approximately 2000m² of floor space and span the width of the development site, adjoining adjacent buildings. The height of the new building would measure approximately 10.5m in height, and when viewed from Newgate Street would follow the eaves line of the adjacent properties. The building would be constructed using a steel frame, with powder coated dark grey metal that would be visible to the external elevations. The front elevation would include a central glazed tower with external terraces either side. The material for the outer wings to either side has been revised to a dark grey brick. The appearance of the building is more functional to the rear and would be clad in powder coated metal cladding.
8. A central ground floor entrance from Newgate Street is proposed, this would lead to a central showcase plaza and stage, with a balcony above to provide a viewing area onto the stage from the first floor. The first floor would also feature an external terrace onto Newgate Street, with the second floor comprising an external roof terrace with glazed frontage onto Newgate Street. An internal roof lantern would provide views onto the stage below, while enclosed staff and plant

rooms would sit under a lean to roof to the rear. Staircases and a lift are proposed to provide access between floors.

9. 6no. cycle hoops with a capacity to store up to 12no. bicycles are proposed to be installed to the rear of the building, with provision for a dedicated bin storage area also made to the rear. The site would be accessed by pedestrians from Newgate Street with a servicing area to the rear accessed via Kingsway.
10. The application is being reported to planning committee in accordance with the Council's Scheme of Delegation as the proposals represent major development with the proposed floor area exceeding 1000m².

PLANNING HISTORY

11. Previous applications relating to this site predominantly sought consent for advertisements and minor alterations to the shop frontages linked to the former uses.

PLANNING POLICY

National Policy

12. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
13. *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.
14. *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.
15. *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.

16. *NPPF Part 7 - Ensuring the vitality of town centres*- Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
17. *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.
18. *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.
19. *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.
20. *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.
21. *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.
22. *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 Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.
23. *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:

24. 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; noise; use of planning conditions; and; water supply, wastewater and water quality.

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

Local Plan Policy:

The County Durham Plan (CDP)

25. *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
26. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
27. *Policy 29 (Sustainable Design)* details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
28. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to

potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

29. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
30. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
31. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
32. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
33. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided, or the proposal meets licensing criteria in relation to European protected species.
34. *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.

Neighbourhood Plan:

35. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

36. *Bishop Auckland Town Council* – Offer full support for the application as they consider the proposals to create an attractive prospect for the town and to meet four of the five key ambitions that make up the "Regeneration Statement" from Durham County Council to create vibrant and successful towns, top locations for businesses, sustainable neighbourhoods, and to enable competitive and successful people.
37. *The Coal Authority* – Consider that the content and conclusions of the submitted revised Phase I Desk Study (February 2023) from HBPW LLP meet the requirements of the planning system in demonstrating that the application site is safe and stable for the proposed development and therefore confirm they have no objection to the proposed development.
38. *Lead Local Flood Authority* – Advise that if there is no suitable surface water outlet, discharge to the combined sewer system would be acceptable but should be controlled to greenfield runoff rates taking into account all storm events up to and including the 1 in 100 year event plus 45% for climate change
39. *Highways Authority* – Advise that the site is situated within a well-established commercial area with good links for pedestrians and cyclists to access the site. The proposal would be serviced from the rear via an unadopted road accessed from the C130 Kingsway Road where there is adequate secure refuse storage proposed which can be safely accessed for collection. It is advised that cycle storage facilities should be secured by condition in accordance with the latest DCC Parking Standards. Overall, no objections are raised.
40. *Historic England* – Advise that although positive amendments to the incorporate brick materials on the side panels of the building, a less industrial form of construction would make the building relate more positively to the conservation area. Concerns are raised that this remains a missed opportunity to facilitate enhancement to the town's heritage in a prominent part of the conservation area as advocated by the NPPF. Overall, it is advised that the application would cause a less than substantial degree of harm to the Bishop Auckland Conservation Area. It is considered that a balanced decision between harm and public benefit, which can be economic and social in nature, is required to be made in by the local planning authority in line with the NPPF.

Non-Statutory Responses:

41. *Spatial Policy* – Advise that the proposals would help to secure the long-term occupancy of a building/site and mitigate the vacancy rate within Bishop Auckland town centre. The proposal would also remove an eyesore from

Newgate Street which will have a positive impact on the vitality and viability of the town centre.

42. *Design and Conservation* – Advise that this application proposes an ambitious food, beverage and entertainment development which offers much in response to regeneration aspirations of the wider town and identified needs in this sector to support and stimulate ongoing wider developments. The principal impact of the development is on the surrounding conservation area, with the major benefit being the restoration of built development to a gap site present for more than a decade blighting the immediate area. To facilitate this a degree of harm results from the loss of a building which makes a positive contribution to the surrounding area as a result of historic and architectural significance, although both have been eroded. It is considered that this minor level of harm can be outweighed by the wider public benefits of the proposal subject to the wider acceptability of the proposed development. Minor design and material changes have been made to address initial concerns and recommendations. Overall, any residual harm, categorised as less than substantial should be weighed against the public benefits of the proposal.
43. *Heritage Action Zone* – Advise that if consent for demolition is given then it should be subject to an historic building survey and recording prior to demolition. It is identified that the site occupies a prominent location within the Conservation Area, with the proposed materials and illuminated vinyl signage likely to impact the historic setting, the views of Historic England and the Councils Design and Conservation team should be taken into account.
44. *Environmental Health Nuisance* – Indicate their satisfaction with the conclusions and recommendations of the revised Noise Impact Assessment and recommend conditions to restrict opening hours, secure details of odour management, a light spillage plan and a Construction Management Plan. Subject to these recommendations to be secured by condition the impacts arising from the development can be satisfactorily mitigated.
45. *Environmental Health Contamination* – Advise that the Phase 1 Contamination report recommends further site investigations. A Phase 2 contaminated land report should be secured via condition.
46. *Environmental Health Air Quality* – Confirm that no further information regarding air quality is required subject to a condition to secure details of a dust management plan.
47. *Ecology* – Following the inclusion of bat and bird boxes to achieve a net biodiversity gain, no objections are raised to the development.

External Consultees

48. *Visit County Durham* – Indicate their support for the proposal commenting that Bishop Auckland has invested heavily in its overall destination offer in recent years and the town is now establishing itself as destination with a wide range of attractions. Visitors drawn to Bishop Auckland's expanding portfolio of attractions will need somewhere to eat and drink and an evening entertainment offer should be encouraged. Advise that the longer that visitors to stay in the

area, either as overnight visitors or day extenders, the more they will spend and add to the viability of local businesses and employment.

49. *Northumbrian Water* – Confirm they have no specific comments to make other than they actively encourage the use of sustainable drainage systems.
50. *Police Architectural Liaison Officer* – Make recommendations around the use of CCTV and staffing but raise no objections to the proposals.
51. *Durham Constabulary* – No comments received.
52. *County Durham Fire and Rescue* – No comments received.
53. *Bishop Auckland Town Centre Manager* – No comments received.

Public Responses:

54. The application has been advertised by way of a site notice, an advertisement in the local press and individual notification letters.
55. One letter of representation has been received requesting that the impacts of the proposals on the residents of the supported living accommodation at 60 Kingsway, to the rear of the site, are considered. The extent of the opening hours of the development are questioned, with a preference indicated for a reduction in opening times.

Applicants Statement:

56. The application proposes to redevelop the former WH Smith and Mothercare site within Bishop Auckland town centre into a new STACK facility that will promote and enhance the centre's attraction. The applicant and Council have worked in a positive and constructive manner to bring the proposed development forward through the planning system as well as liaising with Bishop Auckland Town Council prior to the submission of the application, with the Town Council also providing its support for the proposal during the application.
57. The proposal will provide an exciting mixed use space which includes food kiosks, cafes, bars and other uses. The proposal will allow for small businesses to occupy the spaces allowing for a variety of choice for consumers. The venue will also provide for live music performances and events for local people and visitors to Bishop Auckland. Through enhancing the attraction of the centre, the proposal will support existing businesses within it as well as promoting the town centre as a location for new businesses to invest within it. The proposal is positive investment that accords with the Council's objectives to improve Bishop Auckland through the significant funding that it has secured as part of Future High Street Funding, Towns Funding and Levelling Up Funding. The proposal therefore also fully complements the Council's significant investment within the centre through initiatives such as the Council's plans for a new bus station and its recent investment in acquiring the Newgate Shopping Centre.

58. Bishop Auckland has a high vacancy rate which currently stands at 26.3%. The Spatial Policy Team has recognised the important investment that the proposals would contribute to the area and their support is welcomed. The existing site detracts from the character of the high street, town centre and the Conservation Area. The proposal provides significant investment to redevelop the site and revitalise this part of the town centre.
59. The proposal will create 75 new jobs generating around £1.2m in local earnings that presents the possibility to support further businesses within the local area. The Applicant is STACK who are a reputable hospitality business in the north-east. The proposal is part of STACK's commitment to invest in the County with an application for a STACK in Durham City Centre currently under consideration.
60. This development is within the town centre, which is a highly sustainable location for the proposal. The location allows for visitors to access the site on foot and by bike from surrounding residential areas and by sustainable transport methods such as buses or trains.
61. The proposal includes a roof terrace which is a key feature of the scheme and will be an attractive selling point for people visiting the street food outlets, bars and cafes of STACK. The applicant has worked extensively with Durham County Council Officers, specifically the Environmental Health Officer to ensure that the proposed roof terrace would not negatively impact on the amenity of the surrounding area. Through this consultation, appropriate noise mitigation is proposed that ensures the amenity of surrounding residents.
62. We therefore conclude that the proposal revitalises a currently redundant site in the centre of Bishop Auckland. The STACK development provides inward investment within the town and wider area by providing new opportunities for small local businesses, employment opportunities and an exciting venue for local people and visitors.

PLANNING CONSIDERATION AND ASSESSMENT

63. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, the Impact upon Heritage Assets, Highway Safety, Residential Amenity, Flooding/Drainage, Ecology, Ground Conditions, and Sustainability.

Principle of Development

64. 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) is the statutory development

plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.

65. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
66. County Durham Plan (CDP) Policy 9 sets out a hierarchy of town centres across the County and identifies Bishop Auckland town centre as a Sub Regional Centre. Policy 9 supports new town centre development across all of the County's centres that will improve choice and bring about regeneration and environmental improvements. The site also lies within the defined Primary Shopping Area, where Policy 9 sets out that A1 (retail) uses will be supported, while other uses will be permitted where they preserve the vitality and viability of the Area.
67. The supporting text to Policy 9 states that Bishop Auckland town centre has significant levels of floorspace within its defined centre boundary, with several major, national and multiple retailers represented, and serves Spennymoor, Crook and much of the rural west. A range of projects are being developed across the town centre investing in the culture, heritage and economy of the town including the Bishop Auckland Heritage Action Zone and also the Zubaran Centre for Spanish and Latin American Art. Policy 9 supports proposals that will deliver the aims of the Town Centre Masterplan, to increase footfall within the town centre and improve its vitality and viability.
68. The Bishop Auckland Regeneration Town Centre Masterplan (2019) seeks to build on the significant investment at Auckland Castle through the Auckland Project and Eleven Arches. The Masterplan identifies that in order to encourage more people to use the town centre throughout the day and evening, there is a need to provide a greater variety of and better shops, increase the number of cafes, restaurants, and bars (including live music entertainment).
69. The Masterplan identifies three key issues: to fill empty shops; provide attractions; and to provide food & beverage options. However, the proportion of cafes/restaurants within Bishop Auckland town centre is less than half the national average for such uses within town centres. This runs counter with the centre's emerging focus as an arts and cultural destination where food and beverage facilities will play a key role in the overall visitor experience and in extending dwell time. The Masterplan specifically identifies the land at the application site through its redevelopment, as a key opportunity to regenerate this area.
70. As part of the regeneration of Bishop Auckland town centre the Council are also investing in public infrastructure such as the Newgate Shopping Centre and a

new bus station and car park. The proposed development forms a key project advanced by the Council and enabled by Future High Street Funding. The objective of the projects within the Future High Street Fund being to attract between 430,000 and 660,000 day visitors to the town per year by 2024, a significant increase from the pre-2016 levels of 27,000 visitors annually.

71. This above policy approach and wider strategy aligns with the NPPF which advises that planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries. This includes including allowing a suitable mix of uses; defining the extent of town centres and primary shopping areas; and making clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre.
72. The application seeks to erect a mixed use building comprising various food and drink operators (Use Class E) and a central plaza with stage to enable live music performances (Use Class Sui Generis). These uses are considered to be main town centre uses as defined by Annex 2 of the NPPF.
73. The Council monitor town centres on an annual basis and this provides an assessment of the mix of uses within town centres within the County. The most recent assessment of Bishop Auckland was carried out in the summer of 2022, when the proportion of vacant units stood at 26.3%. This proposal relates to two of the vacant units and is also a 'gap site' within the town centre. In this respect, the development would have a positive impact on both the vacancy levels and bringing a vacant site back into use. Bishop Auckland town centre has the second highest vacancy rate in the County, and it is significantly above the national average of 14.1%. In light of this, it is considered that the proposal is likely to enhance the vitality and viability of the centre, through the introduction of main town centre uses and creation of a livelier and more vibrant town centre, particularly on an evening and weekends.
74. The applicant has advised that the STACK facility in Seaburn attracts approximately 100,000 monthly visitors, with 70% of visitors coming from the Sunderland area and 30% coming from outside this area. 55% of users of a STACK facility visit more than once and 65% stay for more than two hours. In Newcastle, 66% of visitors to STACK also undertook a shop for non-essential goods, 90% also visited another licensed leisure premises, and 70% dined at another restaurant during their visit to Newcastle City Centre. Therefore, it is considered that the proposed development would create a new destination within a prominent town centre location in Bishop Auckland which would increase footfall thereby improving the vitality and viability of the town centre.
75. Further to this, the applicant has confirmed that approximately 75 people would be employed as a result of operations at the site, equating to 54 full-time equivalent employees. This is considered a further benefit weighing in favour of the application.
76. In summary, the proposed development would bring a vacant site within the primary shopping area back into active use through the creation of a new destination comprising a mix of town centre uses. The town centre has a high

vacancy rate, and the proposal would increase footfall and remove an eyesore from Newgate Street, which would have a positive impact on the vitality and viability of the town centre. Therefore, it is considered that the proposals can draw significant support from CDP Policy 9 and NPPF Paragraph 86.

Impact upon Heritage Assets

77. NPPF Paragraph 197 advises that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.
78. NPPF Paragraph 199 advises 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). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
79. In addition, NPPF Paragraph 206 advises that Local Planning Authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
80. The approach of CDP Policy 44 is consistent with the NPPF in this respect in that it requires new development to 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 also sets out that development which leads to less than substantial harm to a designated heritage asset is required to be weighed against the public benefits of the proposal.
81. The aforementioned policies and guidance require the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and this is in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
82. In assessing the development against the above policy criteria, as advised by the Councils Design and Conservation Officer, the significance of the site derives from its position and contribution within the designated Bishop Auckland Conservation Area. It is recognised that at present the gap site element is harmful to the character, appearance and significance of the area adding to the sense of vacancy and decay which has characterised parts of the town in recent years. The retained building on site, although much altered, represents a rare style and period of development in the town context. The upper floors, with the exception of the original pediment, remain intact and make a positive

contribution. This building has further historic and communal value given the links to the former town department store. Overall, the retained building has low but some significance in the context of the wider conservation area.

83. The site and extant building also feature in the setting of the rear of 1a & 1b Market Place (Auckland House) - Grade II listed, the former headquarters of the Deggart's department store chain, although any physical links between the application site and these listed buildings are now lost as far as can be ascertained. The application site also plays a role in the setting of No.18 Newgate Street (former Yorkshire Bank) Grade II listed which lies opposite the site.
84. As set out above, the development proposes the demolition of the existing building on the site and the formation of an infill development. This would align with the existing building line running along Newgate Street, with eaves height following the line of the adjacent properties. However, the replacement/new building would be modern in appearance using an industrial form of construction to align with the developers' corporate image and to provide a statement/landmark building within Newgate Street. This would be done by utilising a visible steel frame while the front elevation would also include a central glazed tower with external terraces either side. The material proposed for the outer wings to either side would be a dark grey brick. The appearance of the building to the rear is more functional which provides a secondary access point and servicing and is clad in powder coated metal cladding.
85. Despite amendments to the scheme which they consider positive, Historic England still raise concerns on the appearance of development, advising that a less industrial form of construction would make the building relate more positively to the conservation area. They consider that this remains a missed opportunity to facilitate enhancement to the town's heritage in a prominent part of the conservation area as advocated by the NPPF. Overall, they advise that the proposed development would cause a less than substantial degree of harm to the Bishop Auckland Conservation Area, and that a balanced decision between harm and public benefit, which can be economic and social in nature, is required to be made by the Local Planning Authority in line with the NPPF.
86. In assessing the application, following amendments, the Council's Design and Conservation Officer advises that the scale and mass of development is broadly acceptable. The eaves line of the development follows that which is already established, and horizontal references are made to adjacent signage zones and fenestration patterns helping to integrate the basic unit. It is advised that the development is well detailed in this respect and handles alien features like recessed balconies or terraces well, providing a talking point without being overtly obtrusive. The oversailing of the steel frame above the eaves is considered to represent a landmark intervention which suggests an assertiveness and competition for attention within the street. In this instance, this forms a key part of the branding that makes STACK unique as a key regional attractor and is considered to help create a destination justifying the increased street presence. The use of dark grey brick panels on the side flanks of the building on the front elevation is considered to help assimilate the building further into the run of continuous frontages, giving a contextual nod to the materials of the conservation area.

87. It is also advised that the use of metal sheeting is a legitimate choice in appropriate locations; the rear elevation for instance forms part of a service yard arrangement and therefore sits relatively well concealed and appropriately in this location. It also reflects historic uses of lighter materials in rear wings along Newgate Street servicing the principal frontages along with modern interventions such as the Spanish Gallery fly tower.
88. The rear elevation in effect proposes a lean to roof, which would double as an acoustic screen from the roof terrace and including staff and plant rooms. The appearance of this element is not considered to cause any harm in the context of the rear elevation and service yard arrangement.
89. Although the design rationale is considered sound and has been executed well, it is still concluded, particularly through the loss of the existing building on site, that the development would lead to some harm to the character and appearance of the Conservation Area. This level of harm is categorised as less than substantial and is required to be weighed against the public benefits of the proposals.
90. In terms of Archaeology there is a general presumption under CDP Policy 44 that archaeological features are retained, and where a balanced judgement concludes that preservation in situ should not be pursued, it will be a requirement that they are recorded with the results fully analysed and made publicly available. This is in line with NPPF Paragraph 203.
91. In this respect, acknowledging the benefits of redeveloping the site, Historic England and the Heritage Action Zone Officer have both advised that the building to be demolished should be recorded. In this regard Historic England have recommended a level 3 historic building survey and recording prior to the demolition of the building, with the information to be subsequently deposited in the Historic Environment Records (HER). Accordingly, a condition is recommended to secure this.
92. In conclusion, the main impact on significance comes from the loss of historic fabric in the standing building and the impact of the new development on the character, appearance, and significance of the surrounding Conservation Area. It is considered that the revised elevations of the development ensure the delivery of a high-quality modern intervention, a condition is recommended to secure appropriate recording of the standing fabric. Nevertheless, the residual harm is classed as less than substantial. Relevant planning policies within the CDP and NPPF require this level of harm to be weighed against the public benefits of the proposal. These benefits are highlighted above, including the development of a gap site, provision of employment opportunities and the formation of a new visitor destination within the town centre that would enhance its vitality and viability. Overall, it is considered that these benefits outweigh the less than substantial harm to the character and appearance of the Conservation Area, and the development would therefore accord with CDP Policy 44, Part 12 of the NPPF and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Residential Amenity

93. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
94. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
95. Where a proposed use is considered locationally acceptable in principle, consideration needs to be given to the impact that the development would have. It is important to recognise that drinking establishment and venue for live music performances and events can give rise to noise and disturbance which could have an impact on the amenity of existing and future occupiers of adjoining properties and other properties in the immediate area, principally those in residential use. Uses such as restaurants, public houses, music venues and takeaways may detrimentally affect the locality of an area, through disturbance caused at times when residents want to enjoy peace and quiet. At these times, nuisance may be caused by the business itself (e.g., noise from the venue) and also from customers/patrons congregating outside. These considerations also need to be examined in the context of CDP Policy 31 above.
96. 60 Kingsway is the closest sensitive receptor to the application site located approximately 10.5m away to the east. It is occupied by Auckland Home Solutions Housing Association which is a supported living accommodation comprising 18no. flats. The next closest sensitive receptors are located on Regent Street approximately 85m away to the south east, and The Dell.
97. The application is supported by a Noise Impact Assessment which identifies that acceptable noise levels would be exceeded at 60 Kingsway, but not at Regent Street or The Dell, and a mitigation scheme is therefore required. The Assessment recommends mitigation in the form of the installation of a continuous 2.4m high acoustic barrier on top of the 3rd floor between the roof terrace and back of house rooms, with opening hours proposed to be 7am-2am 7 days a week, and with the capacity of the roof terrace and the external first floor terrace restricted after 11pm.
98. Environmental Health Officers (EHO) have reviewed the Assessment and advised that their main concerns are in relation to noise generated from both the roof top and external terraces and the impact of this upon the occupants of 60 Kingsway to the rear given the opening hours. While the submitted report suggests that relevant noise levels can be achieved, this would not guarantee inaudibility to residents especially during late evening/early morning hours. Environmental Health advise that they have historically received, investigated, and served noise abatement notices on garden/yard areas serving licenced premises, which back onto residential housing. As a result, EHO have recommended that the use of the second floor roof terrace and first floor roof terrace be restricted until 11pm, with no patrons to occupy these areas after this time, which is in line with licensing restrictions which have already been agreed

with the applicant. A condition is recommended to secure adherence to these opening hours. They also recommend that all deliveries into the rear of the property shall be restricted from 8am to 7pm, as well as a condition to ensure noise generated from plant does not exceed specified levels with the operator to provide a report demonstrating compliance with these upon request.

99. In terms of odours, the food units have the potential to generate smells and the applicant has indicated their intention refine the means of extraction for the development. Accordingly, a condition is recommended to secure further details prior to the first use of the development, this would secure the efficiency and noise levels of abatement measures where appropriate.
100. External lighting is proposed to consist of entrance area lighting and illuminated signage, wall mounted bulkhead lighting to the roof terrace, and LED festoon lighting above seating areas. All lighting is to be time controlled with solar adjustable timeclocks provided to operate lighting only when required from dusk until closing, with a manual facility to override this if required. EHO have reviewed the submitted Lighting Assessment and recommend a condition to secure details of a light spillage plan to protect the amenity of the occupants of 60 Kingsway.
101. The application is supported by an Air Quality Statement which evidences the highly sustainable location of the site with sustainable modes of transport on the form of rail, bus, walking and cycling. EHO have considered that the location is well served by public transport and provision for cycle storage is made and note that the submitted Service Management Plan indicates that the number of vehicle trips associated with deliveries will be under the Institute of Air Quality Management (IAQM) threshold. Therefore, they raise no concerns over the impact of the development on air quality. They do however request further details in the form of a dust management plan relating to the construction phase and a condition is recommended in this regard.
102. The separation distance between the front elevation of the proposed development and the buildings opposite is 11m, below the typically required 24m between habitable room windows within three storey buildings. However, there are limited residential uses on Newgate Street in the form of living above the shops and this is the case for the properties opposite. Therefore, the proposal is not considered to result in a loss of privacy or to have a visually dominant or overbearing impact that would adversely affect the amenity of nearby residents that would be out of place given the established arrangements.
103. In terms of disturbance and antisocial behaviour, the police raise no objections to the scheme but highlight the need for CCTV and appropriate management policies. These are considered more operational matters that the licensing regime would control. As above, it is noted that the development has secured an entertainment and alcohol licence which addresses such matters.
104. Overall, subject to conditions, the proposals are not considered to adversely affect residential amenity or living conditions, in accordance with CDP Policy 31 and Parts 12 and 15 of the NPPF.

Highway Safety

105. CDP Policy 21 requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable, and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. Development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity.
106. CDP Policy 29 also requires that major development proposals provide convenient access for all users whilst prioritising the needs of pedestrians, cyclists, public transport users, people with a range of disabilities, and emergency and service vehicles whilst ensuring that connections are made to existing cycle and pedestrian networks.
107. NPPF Paragraph 105 advises that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. NPPF Paragraph 110 states that appropriate opportunities to promote sustainable transport modes should be taken, whilst Paragraph 112 amongst its advice seeks to facilitate access to high quality public transport. In addition, NPPF Paragraph 111 states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
108. The application site is located in a highly sustainable location within Bishop Auckland town centre. The site is within 800m of the bus station to the west and 1km of the train station to the south and there are good links for pedestrians and cyclists to access the site. There are also various public car parks nearby.
109. The Council's Parking and Accessibility Standards 2019 set out that pubs/restaurants in town centre locations should have one cycle storage space per every 5 staff members. The applicant has stated that the development would be run by 54 equivalent full-time employees which equates to a need to store 11no. bicycles. The proposed site plan shows the provision of 6no. cycle storage hoops which are able to serve 12no. bicycles, according with this requirement. The cycle storage area would be covered by the first floor above, allowing use in inclement weather. A condition is recommended to secure the installation and retention of the cycle storage prior to the first use of the development.
110. The site is proposed to be serviced from the rear via an unadopted road accessed from the C130 Kingsway Road. Highways Officers have reviewed the submitted Service Management Plan which they consider satisfactorily identifies the method and frequency of refuse collection and servicing operations, and also confirms there will be no deliveries made to the front of the venue via Newgate Street. Adequate secure refuse storage is proposed to the rear of the new building which can be safely accessed for collection.
111. The application is supported by an Outline Construction Management Plan which clearly identifies the constraints the successful contractor will be required to adhere to for the safe construction operations and working/delivery times.

Highways Officers have recommended a condition to secure the submission of a final Construction Management Plan prior to the commencement of works.

112. Overall, the site represents a highly sustainable location, and the proposals are not considered to adversely affect highway or pedestrian safety, according with CDP Policy 21 and 29 and Part 9 of the NPPF.

Drainage

113. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. NPPF Paragraph 167 advises that when determining planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 169 goes on to advise that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
114. CDP Policies 35 and 36 relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SUDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
115. Part c) of Policy 35 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. Development will not be permitted unless it can be proven through a Flood Risk Assessment that the development, including the access, will be safe, without increasing or exacerbating flood risk elsewhere, any residual risk can be safely managed and where possible will reduce flood risk overall.
116. CDP Policy 35 at part e) sets out that the development of previously developed land, as close as practicable to a greenfield surface water runoff rate must be achieved. In exceptional cases where the developer can satisfactorily demonstrate that greenfield run-off rates are unachievable, a betterment rate (which should be a minimum of 50% of the existing site run-off rate) will be agreed with the Council. Surface water run-off must be managed at source wherever possible and disposed of in the following order:
1. to an infiltration or soak away system.
 2. to a watercourse open or closed.
 3. to a surface water sewer.
 4. to a combined sewer.
117. The application is supported by a Foul Water Sewage and Surface Water Drainage Statement. The site does not lie within a Flood Zone or within an area at risk of surface water or ground water flooding. The proposals involve the

erection of a new building to replace an existing building to be demolished and a previously collapsed building within the town centre. Consequently, the proposals would not lead to an increase in impermeable area and the site's surface water discharge rates are anticipated to be maintained as existing.

118. The Council's Drainage Section advise in the absence of any direct connection to a watercourse, in order to meet the requirements of Policy 35 e), flow restriction would be required to limit the proposed site's storm water runoff to that of a greenfield site before connecting to the sewer network. The applicant's drainage consultants have explored this issue and have advised that this would require approximately 37 - 57m³ of storm water attenuation. In order to achieve this, given the ground conditions, an attenuation tank would have to be installed underneath the building. The applicant's drainage consultants have explained that the tank would need to be routinely inspected, cleaned, and repaired as required and that having no external access to the tank would result in maintenance difficulties, with any flood exceedance occurring internally. The applicant has also highlighted the implications of the viability of this requirement on the development as a whole and consequently, they have concluded that attenuation cannot be accommodated within the development. As a result of this the development would not conform to the requirements of CDP Policy 35.
119. In considering this matter, it is acknowledged that given the historical use of the site, the proposed development would not increase the extent of impermeable areas. The site represents a town centre location that has historically accommodated buildings up to its boundaries which currently discharge unrestricted into the nearby sewer system. A significant increase in flood risk over the existing situation is therefore not expected to arise. Nevertheless, this policy conflict needs to be acknowledged and weighed in the planning balance against other material considerations.
120. Foul water is proposed to be discharged to the combined water drainage system network within the site, which accords with the hierarchy of preference set out by CDP Policy 36. Northumbrian Water raise no objections to the development.

Ecology

121. NPPF Paragraph 179 b) seeks to promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. Paragraph 180 d) goes on to advise that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks.
122. CDP Policy 43 relates to protected species and their habitats. It is stated that all development which, alone or in combination, has a likely adverse impact on the ability of species to survive, reproduce and maintain or expand their current distribution will not be permitted unless appropriate mitigation, or as a last resort compensation, can be provided, which maintains a viable population and where

possible provides opportunities for the population to expand; and where the species is a European protected species, the proposal also meets the licensing criteria (the 3 legal tests) of overriding public interest, no satisfactory alternative and favourable conservation status.

123. The application is supported by a Bat Survey Report which found there to be a low level of bat activity during the survey and therefore the development would have a low risk to bat populations. The Council's Ecologist concurs with this conclusion due to location of the building to be demolished being surrounded by hardstanding/built up area. However, they requested that a bird and bat box be shown on the proposed plans to deliver net gains in biodiversity. A revised proposed elevation drawing has been submitted and the Council's Ecologist has confirmed their satisfaction with this. A condition is recommended to secure the installation of the boxes. No other protected species or habitats are considered to be affected by the proposals.
124. Overall, the proposals are not considered to adversely affect any protected species or their habitats and would deliver some biodiversity net gain. The development accords with CDP Policy 41 and 43 and Part 15 of the NPPF in this respect

Ground Conditions

125. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
126. The application is supported by a Phase 1 Desk Top Study Report and a Mining Risk Assessment.
127. The applicant has provided a revised Phase 1 Desk Study which contains historical mine abandonment plans which indicate there are no workings extending below the site. The report concludes that given the local information, the thickness of the superficial deposits, and that there are no records of historical workings on the abandonment plans, it is unlikely that the site is at risk of historical shallow mining activity. The Coal Authority have reviewed this information and confirmed they have no objections to the proposed development.
128. The Council's Contaminated Land Officer has also reviewed the submitted information and confirmed the need for further site intrusive investigations, to be secured via pre-commencement conditions.
129. Subject to the recommended conditions, the proposals are considered to comply with CDP Policy 32 and NPPF Paragraph 183.

Sustainability

130. CDP Policy 29 sets out that all major new non-residential development will be required to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good'. In addition,

criterion c) of Policy 29 requires all development to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation.

131. Policy 29 also requires all development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials, during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable waste and prioritising the use of local materials.
132. The application is supported by an Energy and Sustainability Strategy and a BREEAM Pre-assessment and Strategy.
133. The BREEAM Pre-assessment and Strategy sets out a route to BREEAM certification for the project and provides an indication of scoring and opportunities for achieving BREEAM as 'Very Good'. A scoring scenario has been outlined within the submitted report, which demonstrates that, if supported by relevant and appropriate documentary evidence, the proposed development would result in the 'Very Good' achievement. It is envisaged that measures such as the monitoring of water, energy consumption and CO₂ emissions during construction; the testing and inspection of building fabric; the building to be suitably air conditioned / naturally ventilated; the level of emissions generated by heating and hot water; external terrace areas to be non-smoking; and ecological enhancements would be adopted.
134. In summary, it has been demonstrated that the scheme could achieve a 'Very Good' BREEAM rating provided that appropriate measures are taken. Therefore, a condition is recommended to ensure these measures are undertaken and to secure a verification report to confirm compliance.
135. The Sustainability Strategy states sets out the aim to utilise air source heat pumps for the provision of renewable heating for the development. Other carbon reduction measures would include solar shading where appropriate to reduce any unwanted heat gains; low energy lighting (LEDs) throughout; and efficient fans and pumps. The Statement confirms that a detailed strategy would be developed at the post-planning design stage which will fully address the provision of energy and how CO₂ emissions will be reduced. Accordingly, a condition is recommended to secure these details.
136. Subject to conditions, the proposals are considered to accord with the sustainability aims of CDP Policy 29.

CONCLUSION

137. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions

that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

138. In this instance, the site lies within the Primary Shopping Area of Bishop Auckland Town Centre and the proposals would see the introduction of a landmark mixed use development to be ran by an established regional operator that will bring a vacant site back into use. The town centre currently has a high vacancy rate, and the re-development of the site would help to enhance its vitality and viability in line with the aims of the Bishop Auckland Regeneration Town Centre Masterplan. The development is also expected to hire 54 full-time equivalent employees. Therefore, the proposals draw significant support from CDP Policy 9.
139. It is identified that the proposals would result in the loss of some historic fabric through the demolition of the remaining building on site, which is considered to have a low but some significance in the context of the wider conservation area. Overall, Officers are satisfied with the scale, massing and materiality of the development, but recognise the harm arising from the industrial appearance of the building. However, this identified harm, characterised as less than substantial, is considered to be outweighed by the public benefits of the scheme as identified above. The proposals are therefore considered to accord with CDP Policy 44, Part 12 of the NPPF and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
140. Subject to conditions to secure acoustic and a range of other mitigation measures to safeguard the amenity of the occupants of the supporting living flats at 60 Kingsway, the development would accord with CDP Policy 31.
141. The site represents a highly sustainable location accessible by a range of public transport modes. The proposals would not adversely affect protected species or their habitats and would deliver some biodiversity net gain through the installation of a bat and bird box. Conditions are recommended to secure intrusive site investigations. The application demonstrates that a 'very good' BREEAM rating is achievable and outlines a scheme to minimise carbon emissions including the use of air source heat pumps. Conditions are recommended to secure further details and verification, according with CDP Policy 29.
142. Surface water flow would not be attenuated to greenfield run off rates (plus climate change) and therefore the development would conflict with the aims of CDP Policy 35. However, recognising that the proposals would not increase the extent of impermeable area, the conflict CDP Policy 35 is in this instance considered to be outweighed by the substantial benefits of the proposal in the planning balance.
143. Overall, the scheme is considered to bring substantial benefits to Bishop Auckland and to support the aims of the Bishop Auckland Town Centre Masterplan, and in the round would comply with relevant policies of the County Durham Plan. There are no material considerations which indicate otherwise and therefore the application is recommended for approval.

144. 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.
145. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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 following approved plans:

Proposed Ground Floor Plan	P0-[23]-100-PL2	20/02/23
Proposed Sections A-B	SE-[22]-300-PL2	03/03/23
Proposed West and East Elevations	EL-[21]-200-PL5	03/03/23
Level 3 Roof Plan General Arrangement	P3-[27]-106-PL2	03/03/23
Proposed First Floor Plan	P0-[23]-101-PL1	06/01/23
Proposed Second Floor Plan	P0-[23]-102-PL1	06/01/23
Site Location Plan	P0-[90]-001-PL1	06/01/23
Site Plan	P0-[90]-002-PL1	06/01/23

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 9, 21, 29, 31, 32, 35, 36, 41, 43 and 44 of the County Durham Plan and Parts 2, 4, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. No development other than remedial or site investigation work shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 2. Details of methods and means of noise reduction/suppression.

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

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

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

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

4. No development other than demolition, remedial or site investigation work shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation. The Phase 2 shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

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

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

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. Prior to the first beneficial occupation of the development, details of a scheme building upon the principles set out in the Energy and Sustainability Strategy Revision B by JS Lewis Ltd dated January 2023 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, provision of renewable energy generation, low energy lighting, and energy efficient plant. Thereafter, the renewable and low carbon energy measures shall be installed in accordance with the approved details and retained for the lifetime of the development.

Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in Policy 29c) of the County Durham Plan and Part 2 of the National Planning Policy Framework.

7. The development shall be undertaken in accordance with the actions contained within Appendix A of the BREEAM Pre-Assessment and Strategy by Carbon Consults dated 01.02.2023. Prior to the first beneficial use of the development a verification report compiled by a suitably competent person demonstrating that the development has achieved a minimum of a 'Very Good' BREEAM rating shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development complies with the requirements of Policy 29 of the County Durham Plan.

8. The second floor roof top seating area and first floor external terrace shall not be made available for use until the 2.4m high acoustic barrier recommended in the Noise Impact Assessment Revision A by Apex Acoustics dated February 13th 2023 and shown on plan SE-[22]-300 PL2 has been constructed. Prior to the construction of the acoustic barrier and the associated pitched roof, details of the make and a sample of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and retained for the lifetime of the development.

Reason: In the interests of the residential amenity of surrounding properties and the character and appearance of the surrounding conservation area in accordance with Policy 29, 31, and 44 of the County Durham Plan and Part 12, 15 and 16 of the National Planning Policy Framework.

9. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB LAeq (15 mins) between 23.00-07.00. The

measurement and assessment shall be made according to BS 4142: 2014+A1: 2019. On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

10. The development shall not be brought into use until a scheme to control the emission of fumes and smell from the premises has been submitted to and approved in writing by the Local Planning Authority. All equipment detailed as part of the approved scheme shall thereafter be retained, operated and maintained in accordance with the approved details so long as the use continues.

Reason: In the interest of the amenities of neighbouring properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

11. No external lighting shall be installed until a lighting spillage plan to demonstrate the predicted lighting levels at the surrounding properties has been submitted to and approved in writing by the Local Planning Authority. The detail provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. Thereafter, the external lighting shall be erected and maintained in accordance with the approved details.

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

12. The premises shall not be open to customers outside the hours of 7am to 2am on any day of the week. The second floor roof top seating/terrace area and first floor external seating/terrace shall be closed at 11pm and no patrons shall occupy these areas between the hours of 11pm and 7am.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

13. No deliveries to or collection of waste from the rear of the premises shall take place outside the hours of 8am to 7pm.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

14. The bat and bird box shown on the West and East Elevations As Proposed EL-[21]-200 Revision PL3 drawing shall be installed prior to the first beneficial use of the development proposed. Thereafter, the bat and bird box shall be retained for the lifetime of the development.

Reason: To provide net gains in biodiversity in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

15. The cycle storage shown on Proposed Ground Floor Plan P0-[23]-100-PL2 shall be installed prior to the first beneficial use of the development proposed. Thereafter, the cycle storage shall be retained for the lifetime of the development.

Reason: To provide cycle storage for staff in accordance with Policy 21 of the County Durham Plan and the Council's Parking and Accessibility Standards 2019.

16. A Written Scheme of Investigation setting out the scope of building recording work in accordance with the advice set out in 'Understanding Historic Buildings: A guide to good recording practice' by Historic England shall be prepared by a suitably qualified professional and submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development. Thereafter the programme of recording the building shall be carried out in accordance with the agreed scope. The programme shall include:
 - i. A methodology comprising plans of the building to indicate the location and direction of photographs taken,
 - ii. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details.

Reason: To comply with Policy 44 of the County Durham Plan and paragraph 205 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

17. Prior to the development first being beneficially occupied, a copy of the programme of building recording work shall be deposited at the County Durham Historic Environment Record.

Reason: To comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

18. Prior to the installation of the dark grey brickwork to either side of the front elevation of the new building, details of the make, texture and a sample of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details.

Reason: In the interests of the character and appearance of the surrounding conservation area in accordance with Policy 44 of the County Durham Plan and Part 12 and 16 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 Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Residential Amenity Standards Supplementary Planning Document 2020
Statutory consultation responses
Internal consultation responses
External consultation responses
The Bishop Auckland Regeneration Town Centre Masterplan (2019)



<p>Planning Services</p>	<p>Demolition of building and structures and the erection of a mixed use building comprising uses within Use Class E 'Commercial, Business and Service' and Sui Generis 'Drinking Establishments and Venues for Live Music Performances and Events' with ancillary facilities, provision of a roof-top terrace with external seating and associated facilities</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Comments</p>	
	<p>Date: 14th March</p>	