

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/23/00700/FPA
FULL APPLICATION DESCRIPTION:	Erection of 1 no. 3 storey building comprising of 3 no. units (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to ground floor, 1 unit (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to first floor and 4 no. residential units (Use Class C3) ancillary to the commercial units to the ground and first floor to the second floor.
NAME OF APPLICANT:	Mr David Gill
ADDRESS:	Land To The North Of 28 North Terrace Seaham SR7 7EU
ELECTORAL DIVISION:	Dawdon
CASE OFFICER:	Lisa Morina Senior Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site consists of a parcel of disused/previously developed land to the north of 29 North Terrace, Seaham within close proximity to the commercial centre of the town. It is located within Seaham Conservation Area and is surrounded by existing built development comprising residential dwellings to the north, open land/parking area to the east and a mix of uses including a former gym, residential and other leisure uses to the south.
2. The site is positioned in highly accessible location within walking distance of local shops, services and employment opportunities and is also accessible to public transport including regular town centre bus services.

The Proposal

3. Planning permission is sought for the rection of 1 no. 3 storey building comprising of 3 no. units (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to ground floor, 1 unit (Use Class E(a), E(b), E(c), E(d), E(e), E(g)(i)) or sui generis (drinking establishment) to first floor and 4 no. residential units (Use

Class C3) ancillary to the commercial units to the ground and first floor to the second floor.

4. The proposed building would occupy the majority of the site footprint although the proposal does also include the installation of a decorative paving to the front of the site.
5. This application represents the resubmission of a previous planning application which was originally refused by the committee when it was presented to members in 2021. In that instance it was considered that the development would, by virtue of its design, appearance, characteristics, mass and scale appear as an incongruent addition within the Conservation Area, have a detrimental impact upon residential amenity and highway safety through increased parking demand. This decision was subject to an appeal to the Planning Inspector which was subsequently dismissed. Full consideration of that decision in the context of the current application is undertaken elsewhere in this report.
6. The current application reflects a reduction to the overall height of the building, reducing this to 3 storey height from 4 as previously proposed. Further amendments were submitted during consideration of the application which included the removal of the domed corner feature.
7. The application is reported to Planning Committee as it constitutes a major development.

PLANNING HISTORY

8. DM/20/01726/FPA Retrospective application for temporary site compound, including site hoarding, associated welfare and storage units and material storage . Withdrawn 09.03.2022.
9. DM/20/01479/FPA - Erection of 1no. 4 storey building comprising of 3no. units (use class E (a)(b)(c) or Sui Generis (drinking establishment)) to ground floor, 1no. unit (use class E(d) to first and second floor and 4no. residential units (C3) ancillary to the commercial units to third floor. (amended description). Refused 15.09.2021. Dismissed on appeal.

PLANNING POLICY

NATIONAL POLICY

10. 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.
11. 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.

12. 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.
13. 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.
14. 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.
15. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
18. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
19. NPPF Part 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.
20. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and

enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

21. 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:

22. 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.

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

LOCAL PLAN POLICY:

County Durham Plan

23. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
24. Policy 2 (Employment Land) Supports business, general industrial and storage and distribution development within specified employment allocations and also protects other existing employment sites from being changed to non-employment uses, unless appropriate marketing has been undertaken or that the use would not compromise the main employment use and would comply with retail Policy 9 where main town centre uses are being proposed. Where a non-employment development is proposed on the protected employment sites, any existing jobs on site must be relocated. Specific further protection and safeguarding is outlined for land north of NETpark, at Integra 61 and Project Genesis, Consett.
25. Policy 6 (Development on unallocated sites) states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
26. 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.

27. 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.
28. Policy 25 (Developer contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
29. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest. Any residential and commercial development should be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation
30. 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.
31. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users. Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.
32. 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.

33. 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.
34. 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.
35. Policy 42 (Internationally Designated Sites) states that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.

Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017.

Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.

36. 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.
37. 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.
38. Residential Amenity Standards SPD – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

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

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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

40. Historic England – Advises that the advice of the Councils Design and Conservation Team is sought.
41. Highway Authority – No objection
42. Durham Constabulary – No response received
43. DCC as Lead Local Flood Authority (LLFA) – No objection
44. Seaham Town Council – Objects to the proposal on the grounds given below:
- The effect of the proposed development on the living conditions of the occupiers of nearby dwellings
 - The effect of the proposed development on highway safety, with reference to parking demand and provision The highways authority indicates that the proposal would inevitably increase on-street demand in the area and that the development makes very little provision to mitigate the parking issues.
 - The impact the proposal would have on the streetscene and conservation area in which the property is located
 - The proposed development would cause harm to the character and appearance of the CA. Consequently, the proposal would fail to accord with Policies 29 and 44 of the County Durham Plan 2020 (CDP) where they seek to achieve well-designed buildings and places and to protect the character and appearance of Conservation Areas. The proposal would as a result also fail to preserve or enhance the character and appearance of the CA. Furthermore, there would be a conflict with The Framework, where it too seeks to achieve well-designed places, and because the harm to the CA is not outweighed by public benefits.

INTERNAL CONSULTEE RESPONSES:

45. Environmental Health (Contamination) – A phase 2 investigation report is required
46. Environmental Health (Noise) – This application is seeking multiple uses for the development over three floors, the ground floor will be divided into three units with the intention to have Use Classes of E(a), E(b), E(c), E(d), E(e), E(g)(i) or sui generis (drinking establishment); the first will have similar Use Classes to the ground floor and the second floor will be divided into four residential flats, Class C3. Such mixed uses are not usually supported without sufficient mitigation measures therefore an objection is raised. Subject to appropriate conditions being applied to any application with regards to noise and disturbance issues, this would remove any objection raised.

47. Ecology – No objection subject to mitigation being carried out in accordance with PEA and financial contribution towards HRA.
48. Spatial Policy – Confirms that policies 6 and 9 of the CDP are the principal policies against which the proposal should be assessed and raises no fundamental objection to the submitted sequential assessment.
49. Design and Conservation – Following an application and appeal process, the applicant has submitted an amended scheme to address the concerns of the planning inspector. The reduction in scale allows the building to relate to the scale of the majority of North Terrace. The removal of the elaborate domed corner feature is welcomed which was designed out of the original scheme.

PUBLIC RESPONSES:

50. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. To date, 19 letters of objections and 2 letters or representation have been received with the following comments:

Visual Impact/Scale/Conservation Area Issues

- Seaham's Character Appraisal and Management Plan (CAMP), which had been 'inadvertently' ignored by the proposer, Durham CC planning department and conservation officer.
- The Government's National Planning Policy document also states that any new development should make a positive contribution to local character and distinctiveness of the area - it's hard to see how a large three-storey modern contemporary building in this key position would benefit a conservation area.
- The impact on the adjacent Grade II listed buildings at Bath Terrace and the other properties of Tempest Road which have been designated as of significant interest;
- Loss of traditional and important views and vistas.
- The proposed reduction in height is not considered to overcome the scale, size, width, bulk, height and massing of the previous application which was refused by the Planning Inspector Detrimental Impact on the Conservation Area – Paragraph 8 of appeal decision.
- The application fails to overcome the points of objection listed in Paragraph 11 of the appeal decision.
- Considerable bulk and massing in fact the new proposal has a larger footprint;
- Visual Amenity Impact given the position of the site adjacent to the main road.
- The finished building would be out of character and would not sit well with the row of properties on North Terrace.
- The proposed boundary wall along Tempest Road is set too close to the road.
- This development will still affect the open vistas at the bottom of Tempest Rd, which the conservation document said should be preserved.
- Concern that the Harbour View Building is being used to assess the proposal against.

Residential amenity

- Loss of light or overshadowing- due to the excessive height of the proposed building, which is not in keeping with other buildings in the vicinity, the development will cast shadow over gardens and properties in the winter months

- Overlooking/loss of privacy - The windows on the side of the development will result in a loss of privacy, as there is no way to screen these windows, which will have an unobstructed view into living room and bedrooms.
- All windows should be removed from the side of the building or at least reduced in size and be of a frosted design to maintain the privacy of the residential properties opposite.
- Concern regarding opening hours of the drinking establishments
- Adequate ventilation needs to be incorporated into the design
- Noise and disturbance resulting from the use including loud music and people leaving late at night.

Highway Safety

- The corner is terrible for traffic, cars parked on both sides on busy days, further housing would make this worse. The increase in parking needs, deliveries and refuse collection in that the additional congestion would create a public safety hazard at the busy junctions of North Terrace/Tempest Road and at Back North Terrace/Tempest Road.
- Building Up to the footpath will result in limited pedestrian access
- Terrace, further restricted by the increase in parked vehicles on both sides of the road. This will only get worse if the development goes ahead due to the additional parking requirements for the proposed gym and commercial units.
- Adequacy of parking/loading/turning - No additional parking has been considered for this development that could easily exceed the capacity of the nearby Terrace Green Car Park, which is often full at present due to existing visitors to the area.
- The Back North Terrace is not suitable for large commercial vehicles that will be required to deliver to these commercial units; lorries are regularly observed now reversing from the minor road of Back North Terrace into Tempest Road.
- Inappropriate/Inconsiderate parking blocking access to properties and preventing parking outside own home
- There was also a comment to say that the revised plans are much more in tune with the build and character of the area however parking remained a concern.
- A pedestrian guardrail should be considered to prevent parking on both sides of the street to keep traffic flowing.

Other Issues

- There is no need for another bar/restaurant in the locality.
- Proposed alternative uses - The land presently provides balance with the other side of the terrace and could be given over to green space/public space.
- There are a number of alternative sites which could accommodate the development
- The applicant owns Harbour View which continues to stand empty.
- Cllr Shaw has requested to speak with the developer on many occasions which has not been reciprocated, as the local residents would welcome some development of the site.
- Use of the properties is wider on this application this could result in all four ground and first floor units being used as drinking establishments - this would be totally inappropriate for the location.
- Devaluation of properties.
- Whilst creation of jobs is recognised, and the basis on which planning permission is often granted this does not always result in development being carried out.
- The applicant concludes that the identified 5 alternative sites in Seaham are 'simply too small' (planning statement paras 46,47), which indicates the fact that this is still a very large building being proposed for a site in the conservation area.

- We agree that this is a brownfield site, but as it has remained undeveloped since the former hospital was demolished in 1960s, it should have a building appropriate for the conservation area and offering valuable uses to the community.
- Concern the building will be left empty.
- Public Drains: The planning authority might want to locate or seek further information about what public drains pass beneath the development site, so that it does not face urgent decisions during the process of development.

APPLICANT'S STATEMENT:

51. This re-application responds to the Inspector's concerns about the previous scheme which related to the impact of the development on the Conservation Area.

A major change in this re-application is that the proposed development is to be a storey lower than previously proposed. During the course of the current application period a further change has been made to the detailed design of the proposed building at officers' request. Acknowledging these changes which have been made the revised scheme is acceptable in design and conservation terms.

The scheme will bring a range of benefits including recycling a site and generating over 30 full time and 30 part time jobs. Additionally, the development will positively contribute to a vibrant promenade which offers a wide variety of leisure and recreational facilities.

We believe the proposals are acceptable in principle and in detail and that they should be supported. The Committee are therefore requested to grant planning permission subject to controlling conditions.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>

PLANNING CONSIDERATIONS AND ASSESSMENT

52. 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.
53. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in this regard. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
54. The County Durham Plan is now adopted and is considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.
55. In this context, it is considered that the main planning issues in this instance are the principle of the development, impact on character and appearance of heritage assets, the design and impact upon visual amenity and the impact of the

development upon residential amenity, and highway safety. As well as any other issues raised where relevant to planning.

Principle of the Development

56. The site is not located within any town centre boundary although it is considered to be an edge of centre location given it is positioned within 300m of Seaham Town Centre as defined by the County Durham Plan, and as such is well linked to existing shops and services.
57. Objection has been raised by some respondents questioning the need for the proposed uses and raising concern at the wide range of uses listed within the description of the development. However, it is noted that neither policy 6 nor 9 of the CDP specifically require the applicant to demonstrate need for any of the uses proposed. There is, however, requirement to demonstrate that there are no more centrally located alternative sites within existing centres that could accommodate the development. In the event that there are found to be no more centrally located alternatives then an edge of centre site could be supported. This is considered in more detail elsewhere within this report.
58. Notwithstanding the above, it is noted that site is not allocated within the County Durham Plan for any particular purpose or use, and as such policy 6 is relevant. This supports development on sites which are not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
59. The site is within the built up area so as detailed above policy 6 supports development on unallocated sites provided it meets the criteria set out within the policy. By way of assessment of the criteria listed in the policy it is noted that the proposed development relates to a site which is brownfield having formally been the location of an infirmary in accordance with Policy 6 criteria i), is located within close proximity to compatible uses that would not be prejudicial to any existing uses in accordance with policy 6 criteria a), is within the existing built framework of Seaham and would not lead to coalescence with neighbouring settlements in accordance with policy 6 criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value in accordance with policy 6 criteria c), has easy access to sustainable transport and local facilities in accordance with policy 6 criteria f).
60. The proposal is therefore considered to be in broadly accordance with the requirements of policy 6 of the CDP subject to more detailed consideration of remaining criteria d), e) and h) which are considered in more detail elsewhere within this report. It is not considered that criteria j) is relevant to this proposal.
61. Policy 9 of the County Durham Plan relates to retail hierarchy and town centre development and aims to protect and enhance sub regional centres, large towns, small towns and local and district centres within the County. Seaham is defined as a Large Town Centre for the purposes of policy 9 which states that proposals for town centre uses not located within a defined centre are required to provide a sequential assessment in order to demonstrate that there are no more centrally located sites capable of accommodating the development. Where an application fails the

sequential test or would have a significant adverse impact on investment or the vitality and viability of a town centre, it will be refused.

62. The NPPF Section 7 provides guidance on how to assess applications for uses that would normally be located within a town centre and that could potentially impact on the vitality and viability of proposed centres.
63. Paragraph 88 confirms that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and LPAs are required to demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
64. Paragraph 90 states that when assessing applications for retail and leisure development outside of town centres, which are not in accordance with an up to date plan, local planning authorities should require an impact assessment if the development is over a locally set floorspace threshold and if there is no locally set threshold, the default threshold is 2500sqm of gross floorspace. This should include assessment of:
 - a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
65. Given the proposed floorspace and nature of the uses an impact assessment is not considered to be required. Paragraph 91 confirms where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.
66. The application has been accompanied by a sequential assessment. Concern has been raised by some interested parties that the sites within the sequential assessment were too small. The applicants have provided a sequential test that identifies units located in in Seaham and Peterlee town centre.
67. In terms of those sites identified in the sequential assessment it is noted that the Seaham Carpet Centre site has been discounted as being too small to accommodate the proposals, which is accepted. The site of 4 South Crescent is assumed to be 4 South Terrace, this site is also in use and it is therefore not available, the applicant has identified the site as too small. The site of 46 – 47 Church Street is also identified as being too small, as are Units 5 & 9 in Byron Place shopping centre. Whilst the applicant has also considered the Ridgemount House site in Peterlee, it is accepted that this does not offer a suitable location for the proposed development and represents a site which is too large.
68. The conclusions of the applicant's sequential assessment have been reviewed by the Council's Spatial Policy Section and are broadly accepted.
69. In light of the above, it is considered that the applicant has met the requirements of the sequential assessment in that there are no suitable, available units or development sites within the existing centres of either Seaham or Peterlee and as such the proposal would not have any adverse impact upon the vitality and viability of either Town Centre. The application site is situated at the end of an existing terrace of commercial units which itself is located within an edge of centre location

and is well related to the commercial centre of Seaham as a consequence. Therefore, the principle of development is considered acceptable when considered against Policy 9 of the County Durham Plan and paragraphs 88 and 90 of the NPPF.

70. In addition, to the commercial elements discussed above, the proposal also includes residential accommodation to the upper floor. Whilst the site is within the 400m of the HRA, which would normally prevent any new residential development due to the impact on the coastal protected site (as set out in the Council's Developer Contribution Guidance Document), it is considered that the proposed residential units would be directly occupied by persons managing or working within the commercial units on the lower floors, this would not have a detrimental effect on the heritage coast and as such is considered acceptable. Consideration of the development upon the Heritage Coast is considered in more detail elsewhere in this report. In summary, it is therefore considered that the principle of residential use at the site is acceptable, subject to a planning condition linking the residential use directly and solely to the commercial uses of the lower floors.

Impact on Designated & Non-Designated Heritage Assets and the character and appearance of the streetscene.

71. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Act requires a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation area.
72. Section 16 of the National Planning Policy Framework (NPPF) goes further in seeking to enhance and sustain the significance of heritage assets and ensuring new developments make a positive contribution to local character and distinctiveness (para. 197), whilst requiring local planning authorities when considering the impact of a proposed development on the significance of a designated asset to give great weight to the asset's conservation irrespective of the level of any potential harm (Para. 199).
73. 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.
74. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
75. The site is located within the Seaham Conservation Area (a designated heritage asset). Significant concerns have been raised that the proposal does not take into consideration the Seaham's Character Appraisal and Management Plan (CAMP) and that the proposal would have a detrimental impact on the Conservation Area in terms

of the scale, size, width, bulk height and massing and that the views of the planning Inspector have not taken into consideration as part of the current proposal.

76. Objections consider that there would be loss of traditional and important views and vistas. In addition, they consider that the removal of one story would not overcome the concerns of the Inspector and the application should be refused. Concern is also raised that the proposal has a larger footprint than that previously considered and there is concern that the Harbour View building, which is also understood to be under the control of the applicant and is presently unused and unoccupied.
77. The site lies within the Seaham Conservation Area and as such the Council's Design and Conservation Section was consulted and have offered the following comments and observations;
78. The Seaham Conservation Area was designated in 1997 in recognition of its industrial heritage, retention of the historic plan form and surviving historic buildings. The proposed development site is within the historic core of the conservation area, in a mixed-use promenade facing onto a prominent and well used public open space with views out to the sea beyond. The site was formerly occupied by an L shaped infirmary built in 1844 according to historic maps and online sources, which was demolished in 1969.”.
79. The proposed development is located on a prominent corner plot within the Seaham Conservation Area and part of the thriving promenade which is well used by residents and visitors. The site is currently vacant, grassed over with a footpath crossing to Back North Terrace. To the north and north-east is a group of attractive 19th century buildings, all two storey, plus attic. Bath Terrace to the northeast is Grade II listed. To the east is a large public open space. Adjacent to the south is a snooker club which appears to be a later infill to the streetscene. North Terrace is predominantly two storey, with only a small number of higher three storey properties. To the south, and acting as a dominant focal point, is the Grade II listed former Police Station.
80. Officers go onto note that the proposed development site is a prominent gap site within the conservation area and opportunities to redevelop the site with an appropriate scale and form of development are supported in principle and raise no objection to the scheme, concluding that the proposal would have a neutral impact on the conservation area itself and to some extent presents limited enhancement through the redevelopment of a vacant plot.
81. It is considered that the proposed development represents an acceptable design solution which appropriately reflects the character and appearance of the historic buildings and conservation area, bringing back into a use a prominent site within the streetscene. Concern is also raised that the Harbour View House development is referenced as a building within the locality of comparable height, and that this is not an appropriate point of reference. However, the building does form part of the North terrace and in this regard forms part of the wider context within which the proposed building would be viewed.
82. Nevertheless, it is noted that the height of the building proposed has been reduced from that which was previously refused and dismissed at appeal and is therefore considered to have an acceptable impact when read in the wider visual envelope, including the rest of the built development along North Terrace itself.
83. As previously stated, concerns have been raised that the proposal has not taken into account the views of the Inspector from the appeal on the previous proposal. At

paragraph 11 of the previous appeal decision the Inspector considered that in that instance the proposed development would, due to its height, bulk, massing and positioning, be an overly dominant feature that would appear incongruous in its surroundings, and one which would cause harm to the character and appearance of the Conservation Area. Whilst the proposal would not be objectionable in terms of its design and appearance taken as matters in isolation, this does not overcome the other harm that would be caused. Given the nature of the proposed development and that the harm would be relatively localised, the inspector considered that less than substantial harm to the Conservation Area would be caused. This being the case, they considered it necessary to weigh the public benefits of the proposal against the harm that would arise to the Conservation Area, in accordance with Paragraph 202 of the National Planning Policy Framework (The Framework).

84. The Inspector identified the public benefits to be the recycling of a disused site in a sustainable location, the provision of an active frontage at ground floor level, economic and social benefits through both construction jobs and jobs once in use, amounting to an expected 30 full time and 30 part time jobs in addition to other indirect employment. The inspector considered that these benefits carried moderate weight in favour of the proposal, in the context of the size of the development that was proposed. However, they noted the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and that the harm that they found would arise to the designated area was a matter that carried considerable importance and weight. Therefore, whilst there would be some public benefit from the appeal proposal, the inspector concluded that this did not outweigh the harm to the Conservation Area that would arise.
85. It is important to note that in dismissing the previous appeal the planning inspector noted that in broad design terms the scheme was acceptable but that the height, bulk, massing and positioning of the building would result in an overly dominant feature within the streetscene and be harmful to Conservation Area as a consequence. Taking that into account it is considered that the removal of the upper floor of the proposed building sufficiently reduces the scale, mass and bulk of the development to ensure that it would not appear as an incongruent addition within the streetscene and would not be harmful to the significance of the Conservation Area.
86. Figure 56 of CAMP is noted in the Inspectors report where he considers this a key vista to which the proposal would be clearly seen. Whilst the width and depth of the proposed building have not been reduced, the height has to such a degree that the building would appear as a subordinate extension to the existing terrace when viewed from this vantage point.
87. The proposal is considered to represent the positive reuse of what is a vacant gap site within a prominent sea front terrace set firmly within Seaham Conservation Area. The site has previously been developed and its reuse would not result in any detrimental impact on the setting, appearance or significance of the conservation area or any nearby listed buildings. It is therefore considered acceptable in accordance with Policies 6, 29 and 44 of the County Durham Plan and Sections 12 and 16 of the NPPF. The proposals are also considered to accord with sections 66 & 72 of the Listed Building Act in that the proposal would not be considered harmful to the conservation area or other identified heritage assets and would allow the conservation area to be conserved.

Impact upon Residential Amenity

88. Policy 31 of the County Durham Plan 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.
89. Paragraph 130 of the NPPF requires that planning decisions should ensure that developments will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
90. Concern has been raised from the residents of neighbouring properties with regards to loss of light/overshadowing due to what they consider to be the excessive height of the proposed building as well as a loss of privacy due to position of windows and the type of windows. Concern has also been raised by residents regarding noise and disturbance from loud music and customers leaving the proposed drinking establishments late at night and that adequate ventilation needs to be incorporated into the design. Concern is also raised regarding the type of uses that could be carried out on the site.
91. The Police Architectural Liaison Officer (PALO) has raised no comment in respect of this application however, raised a number of concerns in relation to the previous proposal and requested that the garage doors/shutters were provided to the rear parking areas, waiting restriction are imposed, opening hours were restricted to 2300hrs, and access code doors were imposed. Garage doors are shown as part of this application and conditions would be added to ensure these restrictions are met however the issue of the access code entrance is considered to be a management issue and not something that could be controlled via planning controls.
92. Access to the retail units would be taken from North Terrance to the Front with the leisure (gym) and residential uses accessed via Tempest Road. It is considered that the retail units and gym would sit within the existing context of a mixed uses within this area framed by a variety of uses and activities. Therefore, any increase in noise or activity would be negligible against the existing activity and noise level typical of this edge of town centre location and busy sea front.
93. Whilst it is acknowledged that there would be an increase in movements near the site, the property is located on a busy corner location, where there are already significant traffic and pedestrian movement, it is therefore considered that any increase in movement to and from the site would not be significant enough to warrant refusal of the application in respect of noise and disturbance.
94. The Council's Environmental Health Officer has confirmed that the proposal is within a noise sensitive location and applications of this nature which are mixed used developments would normally only be accepted subject to conditions. These conditions relate to hours of operation and noise mitigation being provided for example no outside use of the premises after certain times, windows to remain shut etc.
95. The plans also indicate that the uses over each floor would be restricted to occupation only directly related to the commercial uses and this can be secured via planning condition. It is considered therefore, that subject to the appropriate condition the proposal would be acceptable in terms of noise and statutory nuisance.

96. In terms of internal amenity space, the proposed C3 uses are considered adequate for a development of this nature and would provide well-appointed living space with natural light and ventilation to all habitable rooms.
97. Significant concern has been raised in relation to loss of privacy by the adjacent residents on Tempest Road by users of the gym on the first floor. The Council's Residential design SPD requires a minimum of 21.0m between habitable room plus an additional 3.0m for each storey above a 2 storey development. In this regard the proposal would need to achieve 24.0m to create a satisfactory separation and privacy distance. The submitted details show that the separation distance between the proposed building and the residential building to the North on Tempest Road is between 28m to 29m, and as such is considered to be sufficient to protect the amenity and privacy of the dwellings to the North.
98. However, it is considered that whilst the proposal can achieve a satisfactory distance, due to the commercial nature of the first floor and the likely high frequency of users accessing these windows that a perceived surveillance over these dwellings would have a detrimental impact on the residential amenity and enjoyment of the neighbouring properties to the North. Therefore, it is considered that the windows to the Northern Elevation serving the first floors should be obscure glazed and controlled by a planning condition to ensure they are kept as such for the lifetime of the building. This position was also adopted by the Planning Inspector in consideration of the previous appeal.
99. Therefore, subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of policy 29 and 31 of the CDP and section 12 of the NPPF.

Highway and Pedestrian Safety

100. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document.
101. A number of objections have been received in relation to lack of parking, loss of current parking provision, highway safety and additional traffic generation. This issue was also considered at appeal by the Inspector.
102. The application proposes 4no. in curtilage parking space to the rear of the development for use in association with the additional residential units and it has been confirmed that these will be dedicated to the residential occupants and not the commercial users. Given the location of the proposal site on the edge of the town centre it is anticipated that the users of the businesses would utilise the existing parking provision within the town centre.
103. The Highway Authority have reviewed the proposal and whilst noting that the development would generate an increase in demand which is not mitigated by any additional on site provision, nevertheless consider that the application would not have an unacceptable impact upon highway safety sufficient to sustain refusal of the application subject to planning conditions. This includes the requirement to formalise parking restrictions which should be implemented prior to occupation of the property and also delineation of the paved areas to the front, cycle parking to be provided and a construction management plan to be provided.
104. In addition, the footpaths currently crossing the development land are not part of the public highway but would be deemed to possess public access rights which would

need to be formally removed and as such Stopped Up under Section 247 of the Town and Country Planning Act 1990. An informative will therefore be added to advise the developer of this, along with informatives advising that the proposal would be carried out in accordance with Sections 184(3) and 278 of the Highways Act for the new vehicle access crossing to the 4 parking bays.

105. The Inspector concurred with this position, concluding at paragraph 20 of their report that the parking provision proposed would not result in a development that would cause harm to highway safety. Consequently, the proposal would accord with Policy 21 of the CDP, where it seeks to deliver sustainable transport in a safe manner. As there would not be an unacceptable impact on highway safety, there would also be no conflict with The Framework in that regard.
106. It is therefore considered that the proposal would accord with the requirements of Policy 21 of the CDP, and Part 4 of the NPPF.
107. Whilst concern is noted regarding inappropriate parking and people being unable to park outside their own homes. Unfortunately, this is something to which weight can be afforded as when parking is not allocated and results on on-street parking which is the case in this instance, there is not control over who can park on the street.

Ecology

108. Part 15 of the NPPF seeks to ensure that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. Policy 41 of the CDP seeks to resist proposals for new development which would otherwise result in significant harm to biodiversity or geodiversity, which cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. Proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks.
109. The Council's Ecologist has assessed the application and confirm that the ecological report by EcoSurv is sufficient to inform this application and no further surveys are therefore, required. It is considered however that in order for the application to be considered acceptable in respect of policy 41 of the County Durham Plan that the Section 6 of the report should be conditioned to ensure the appropriate ecological enhancements are provided. A condition therefore is to be added in this regard.
110. Policy 42 (Internationally Designated Sites) states development proposals that would potentially have an effect on internationally designates site(s), (including all development within 0.4 km o the sites, as shown on Map B of the policies map document), either individually or in combination with other plans or projects, will need to be screened in first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.
111. Development will be refused where after an Appropriate Assessment, it cannot be ascertain that there would be no adverse effects on the integrity of the site, unless "no alternatives" and "imperative reasons for overriding public interest" as set out in Regulation 64 of Conservation of Habitats and Species Regulations 2017. In such circumstances where tests are met, appropriate compensation will be required in accordance with Regulation 68.
112. Where development proposals are likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats regulations screening assessment, and possible full Appropriate assessment will be required to

demonstrate that the proposal will not adversely affect the integrity of the site. In making such determination of whether a plan/project will have adverse impact on the integrity, the implementation of identified strategic measures to counteract effects, can be considered during the Appropriate Assessment.

113. Durham County Council has carried out screening in compliance with the Habitats Regulations, this work was done in conjunction with Natural England, and after Appropriate Assessment, concluded that there is likely to be a significant effect on the Northumbria Coast SPA and Durham Coast SAC from new housing development within 6km of the coastal European sites due to increased recreational impacts including dog walking and coastal erosion.
114. The Council's Ecologist notes that the proposed development is within 0.4km of the Durham Coast HRA buffer and new residential is normally unacceptable and as such is only allowed to proceed if more than 0.4km away and subject to appropriate mitigation being provided. It was agreed that mitigation for those identified impacts upon the European protected sites will include the provision of alternative green space suitable for off-lead dog walking and/or a financial contribution to the Coastal Access and Monitoring Measures Programme designed to limit the identified impacts.
115. In this instance however, it is considered that as dwelling are proposed to be ancillary to the commercial premises proposed then this would be considered as an acceptable departure to the normal policy. This would be subject to a payment of £756.61 per dwelling towards Coastal Access and Monitoring Measures Programme Tier 2 being paid which should be secured through a S106 Legal Agreement.
116. It is important to acknowledged however that the new residential unit should not be used for any other residential purpose (ie subletting or holiday let use) or the development will be in conflict with policy 42 of the CDP. A condition therefore, will be added to control this aspect
117. The proposed development therefore, would accord with saved policy 42 of the CDP and part 15 of the NPPF, both of which seek to protect and enhance the natural environment.

Connectivity

118. Policy 27 of the CDP requires new residential and commercial development to be served by a high speed broadband connection unless it can be demonstrated that this is not appropriate. As the development would be located within the centre of Seaham within close proximity existing infrastructure and as such it does not appear that there any significant constraints to delivering the connectivity in accordance with the requirements of policy 27. However, the submission and agreement of precise detail in this regard could be secured through planning condition in accordance with the aims of policy 27 of the CDP.

Contamination

119. Paragraph 183 of the NPPF advises that planning decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. In line with this, CDP Policy 32 states that development will not be permitted unless the developer can demonstrate that:

- a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;
 - b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities; and
 - c. all investigations and risk assessments have been undertaken by an appropriately qualified person.
120. The application has been assessed by the Land Contamination Officer who has assessed the historical maps and the submitted Phase 1 with respect to land contamination. A phase 2 is considered to be required, which can be controlled via a pre-commencement condition.
121. The proposal subject to conditions is therefore, considered acceptable in respect of contaminated land issues in respect of policy 32 of the CDP.

Drainage

122. 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.
123. Whilst Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water 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.
124. Concern has been raised that the Council should consider drainage within the area.
125. The Council is the Lead Local Flood Authority and as such drainage information detailing surface water discharged to soakaway has been submitted and assessed. Subject to the development being carried out in accordance with the submitted details which will form part of the approved documents, then the proposal is considered acceptable. The scheme is therefore, considered acceptable in relation to Policy 35 and 36 of the County Durham Plan.

Other Issues

126. Devaluation of property is not a material consideration in determination of this planning application and cannot be afforded weight.
127. Concern has been raised that the developer or other developers have had applications approved and not progressed with work or buildings are standing empty

and this building will. The Council cannot insist on an application progressing once planning approval has been sought or indeed ensuring a building is occupied,

128. Concern has also been raised regarding applications being approved due to the economy and providing jobs as being a benefit. In this instance, and for the reasons detailed within the report, the proposal is considered to accord with relevant policies of the CDP and whilst job creation and boost to the local economy are noted as benefits (a position reflective of that taken by the planning inspector) it is noted that it has not been necessary to weigh these against any conflict with planning policy.
129. Concern regarding the developer and his reluctance to engage with a Councillor is noted but is not a material consideration in determination of this planning application.
130. Whilst the land may be suitable for other uses, failure to progress alternative proposals in this regard is not a material consideration in the determination of this application and the Local Planning Authority must consider the development proposed as part of the current planning application.

Public Sector Equality Duty

131. 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.
132. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

133. The proposed development is considered acceptable in principle and proposes uses which are considered compatible with the site edge of centre location and in addition would not have any significant adverse impact upon the vitality and viability of Seaham Town Centre. The proposed building could be satisfactorily accommodated in terms of mass, scale, layout, design and materials and would not have any unacceptable impact upon residential amenity, ecology, highway safety, land contamination or drainage in accordance with the requirements of policies 6, 9, 21, 25, 27, 29, 31, 32, 41 and 42 of the County Durham Plan and sections 2, 4, 7, 9, 12 and 15 of the NPPF.
134. In addition, it is considered that the redevelopment of what is a presently a vacant site would deliver some enhancement to the character and appearance of Seaham Conservation Area and would preserve the setting of adjacent listed buildings in accordance with policy 44 of the County Durham Plan, section 16 of the NPPF (2021) and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 subject to the inclusion of appropriate planning conditions.

RECOMMENDATION

That the application be APPROVED subject to a s106 agreement to secure the following;

- £3,026.44 to be used towards the CAMMs Tier 2 Beachcare and Wardening programme.

And subject to the following conditions;

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 6, 9, 21, 25, 27, 29, 31, 32, 41 and 42 of the County Durham Plan and Parts 2, 4, 7, 9, 12 and 15 of the National Planning Policy Framework.

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

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

4. 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.

5. 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:

- A Dust Action Plan including measures to control the emission of dust and dirt during construction.
- Details of methods and means of noise reduction/suppression.
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
- Designation, layout and design of construction access and egress points.
- Details for the provision of directional signage (on and off site).

- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
- Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
- Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
- Routing agreements for construction traffic.
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- Management measures for the control of pest species as a result of demolition and/or construction works.
- 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.

6. Notwithstanding any details of materials submitted with the application no development shall commence above damp proof course until precise details of the make, colour and texture of all walling, window 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.

7. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 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.

8. Prior to the occupation of any part of the building hereby permitted, details of appropriate cycle parking shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be implemented and retained in accordance with the agreed details.

Reason: To ensure acceptable levels of cycle parking and to promote sustainable transport methods in accordance with Policy 21 of the County Durham Plan.

9. Prior to the commencement of the development above damp proof course of the development hereby approved a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority.

The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the separate and adjoining properties shall be sufficient to prevent excessive ingress and egress of noise from the commercial elements of the development and shall protect future occupiers of the residential units on the third floor from any nearby external noise sources.

Any noise mitigation measures required and agreed shall be installed 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.

10. No hot food shall be prepared or served at the premises until details of the fume extraction system, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times when cooking is being carried out on the premises.

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.

11. The occupation of the residential units hereby approved shall be limited to person(s) solely or mainly working in the businesses contained within the building hereby approved. The residential units shall not be sold, let, sub-let, or used for holiday accommodation.

Reason: In order to comply with Policy 41 and 42 of the County Durham Plan and Part 15 National Planning Policy Framework.

12. Before any external plant is operated, a detailed noise impact assessment and scheme of sound attenuation measures shall be submitted to and approved in writing by the local planning authority.

The scheme of attenuation measures shall ensure that the rating level of noise emitted from external plant 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.

All plant and equipment failing to meet those limitations shall cease to operate until such time as a scheme of additional noise attenuation measures to achieve the stated levels has been submitted to and agreed in writing by the LPA. The development shall thereafter, be carried out in accordance with the approved scheme.

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.

13. The Class E(a), E(b), E(c), E(e), E(g(i)) and sui generis (drinking establishment) shall not be open for business outside the hours of 0800 to 2300hrs on any calendar day, with the exception New Year's Eve on which the premises shall not be open for business outside the hours of 0800 to 2400 (midnight).

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.

14. Other than background music there shall be no amplified sound / music or live music to be played in the premises.

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.

15. The external area to the front of the ground floor commercial use premises (highlighted as a 'paved feature area' on drawings submitted with planning application DM/23/00700/FPA) shall not be used by customers outside the hours of 0900-2000 hours on any day of the week and there shall be no use of any external areas on Tempest Road at any time.

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.

16. No amplified sound / music or live music shall be played in the external area to the front of the ground floor commercial use premises (highlighted as a 'paved feature area' on drawings submitted with planning application DM/23/00700/FPA) at any time.

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.

17. External doors and windows serving the commercial uses hereby approved shall remain closed outside the hours of 0900-2000 hours on any calendar day.

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.

18. The proposal shall be carried out in strict accordance with Section 6 of the Preliminary Ecological Appraisal by Ecoserve revised 09 September 2022. The agreed measures shall thereafter be implemented prior to the first occupation of any part of the building, and maintained in accordance with the agreed details for the lifetime of the development.

Reason: To ensure a satisfactory form of development in accordance with Policies 41 and 42 of the County Durham Plan and Section 15 of the NPPF (2021).

19. Prior to the occupation of any part of the building hereby permitted details of a scheme for the formalising of parking / waiting restrictions on Back North Terrace and Tempest Road shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall thereafter be implemented in accordance with the agreed scheme at the expense of the developer.

Reason: In the interest of highway safety in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF (2021)

20. Prior to the occupation of any part of the building hereby permitted details of a hard landscaping / paving scheme shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall incorporate and provide a design to clearly delineate the areas of public highway and areas of private ownership. The agreed scheme shall thereafter be implemented in accordance with the agreed scheme at the expense of the developer.

Reason: In the interest of highway safety in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF (2021)

21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed windows within the first and second floor of the North elevation shall be obscured to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be retained thereafter in perpetuity.

Reason: In the interests of the residential amenity of neighbouring properties in accordance with Policies 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

22. 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.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the ground floor units shall be used only for uses contained

within Use Classes E (a),(b),(c) or Sui-Generis (drinking establishment), the floor unit shall be used only for uses contained within Class E (d) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

Reason: In the interests of the amenity of the area in accordance with Policies 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

24. Prior to the commencement of the development above damp proof course of the development hereby approved details of how the building shall ensure that the proposal can achieve as close to Building Research Establishment Environmental Assessment method (BREEM) minimum rating of 'very good' (or any future national equivalent) as possible, shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be implemented wholly in accordance with those details as agreed.

Reason: To ensure that the development achieves a sustainable form of development in line with Policy 29 of the County Durham Plan.

25. Notwithstanding any details of shutters submitted with the application the premises shall not be occupied until precise details of any security shutters or grilles have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

26. 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

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

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

The National Planning Policy Framework (2021)

Residential Amenity Standards Supplementary Planning Document

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Demolition of existing agricultural buildings and erection of 38no. dwellings (Class C3) with associated access and landscape works (amended plans received regarding layout and removal of footpath link) at Land To The North Of 28 North Terrace, Seaham, SR7 7EU Application Reference: DM/23/00700/FPA</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>Date: July 2023</p>	<p>Scale NTS</p>	