

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/24/01303/FPA
FULL APPLICATION DESCRIPTION:	Temporary change of use of car park for use by a school for a purpose falling within Class F.1(a)(provision of education)
NAME OF APPLICANT:	BAM Construction Ltd
ADDRESS:	County Hall Car Park, Durham County Council County Hall Framwellgate Peth, Durham DH1 5UQ
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Paul Hopper Principal Planning Officer paul.hopper@durham.gov.uk 03000 263946

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site encapsulates an area of approximately 1.08 hectares and forms part of the wider Durham County Council, County Hall site, which is located to the north-west of Durham City Centre, and also includes areas of parking, soft landscaping and woodland. Specifically, the application site relates to an area historically used to provide staff, councillor and visitor car parking directly serving County Hall itself, but which also includes the site access from the roundabout at the A691 and areas of grassland and some mature trees.
2. Whilst the main thrust of the site lies immediately to the west of an Area of High Landscape Value (AHLV) some areas immediately adjacent to the southern and eastern boundaries do fall within that designation. Similarly, the main thrust of the site lies to the north and west of the Durham City Centre Conservation Area (CA) although a small portion of the site to the south does fall within this designation.
3. The site is delineated to the west by a mix of stone retaining wall, metal railings and hedge, to the south by a coppice of mature trees and to the east, with the exception of a short section of hedge, the site is not subject to any delineation.

The Proposal

1. The application seeks planning permission for the change of use of the site from parking and soft landscaping associated with the use of County Hall, to a use falling

within Class F.1(a)(Education Provision) of the Town and Country Planning (Use Classes) Order 2021 for a temporary period of 2 years.

2. The site would be used for the purposes of education provision in direct association with St Leonards Catholic School which and would form part of the wider school site the main thrust of which occupies land to the west of the A691 but also includes land to the east and immediately to the south-east of the application site.
3. During 2023 the school discovered the presence of Reinforced Autoclaved Aerated Concrete (RAAC) within some of the school buildings and as such these buildings can no longer be used safely and are unsuitable for the provision of education. Consequently, there is requirement to provide temporary classroom accommodation in order to continue to teach students at the school. It is understood that this provision cannot be delivered within the existing school site due to requirements to make the buildings safe. Planning permission is sought to change the use of the current County Hall Car Park, located immediately to the south-east of the wider County Hall site, to a use for the provision of education, within which the additional teaching accommodation required could be provided for a temporary period of 2 years.
4. This application relates solely to the change of use of the application site from Car Park in association with the use of County Hall to the provision of education falling within Class F.1(a) of the Town and Country Planning (Use Classes) Order 2021. Should planning permission be granted the school have indicated intention to use the site to accommodate temporary school buildings similar to the those present within the playing fields to the south-east of the site.
5. In 2023 the Town and Country Planning (General Permitted Development) Order 2015 was amended to include Schedule 1, Part 4, Class CB, which makes provision for the siting of temporary buildings within the school site until 34th October 2026, should the school be affected by RAAC. The school has indicated a need to exercise this permitted development right within the application site should planning permission be granted.
6. The application exceeds the 1 hectare site area threshold by approximately 0.8 ha, and as such is major development that must be determined by the planning committee.

PLANNING HISTORY

Whilst there are a number of historic planning permission relating to the County Hall site, the following represent the most recent planning permissions;

DM/20/01846/FPA Hybrid planning application comprising detailed planning application for an office block (Class B1) with associated parking and landscaping on land known as Plot C and an outline planning application, with all matters reserved apart from site access, for the demolition of the existing County Hall site and the development of a business park (Class B1) with supporting retail and leisure uses comprising uses within Class A1 (retail), Class A2 (financial and professional services), Class A3 (food and drink), Class D1 (non-residential institutions) and Class D2 (assembly and leisure) with associated landscaping, multi-storey and surface car parking, servicing and relevant infrastructure
Approved 21.01.2021

DRC/21/00075 Part discharge of Conditions 6 (site investigation/contamination), 7 (remediation), 8 (archaeological assessment) and 10 (ecological assessment) insofar as they relate to Plot C, and discharge

of Conditions 13 (construction management plan) and 14 (tree protection)
pursuant to planning permission DM/20/01846/FPA
Approved 21.09.2021

DM/23/03110/DRC Discharge of condition 20 (external lighting) pursuant to
DM/20/01846/FPA Approved
28.11.2023

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
10. NPPF Part 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.
11. 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.
12. 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.

13. 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.
14. 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.
15. 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.
16. 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.
17. NPPF Part 17 – Facilitating the sustainable use of minerals - It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their longterm conservation.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

18. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single suite of Planning Practice Guidance. This provides planning guidance on a wide range of matters.

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

LOCAL PLAN POLICY:

The County Durham Plan

19. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
20. Policy 2 (Employment Land) supports development of and extensions to B1 , B2 and B8 developments within specified employment allocations but also protects other existing employment sites from being changed to non-employment uses unless appropriate marketing has been undertaken for employment uses and that the use would not compromise the main use of the site for B class uses and would comply with retail policy 9 where main town centre policies are being proposed. Specific further protection is outlined for land north of Netpark, Consett Project Genesis site and the

Howns Gill Industrial Estate. Where a non-employment development will replace an employment use the jobs will need to be relocated.

21. Policy 3 (Ayckley Heads). Allocates land at Ayckley Heads as a Strategic Employment Site, and requires any development to reflect principles of development including the provision of high quality, flexible office floorspace, incorporation of an interconnected network of good quality, multi-functional green infrastructure, the setting of new development within a strong landscape framework, provision of compensatory loss of Green Belt on land to the east of the site, provision of enhanced routes to Durham Railway Station and Wharton Park, provides a financial contribution towards playing field re-provision, delivery of attractive, well-designed places, implementation of a water drainage management plan, an enhancement of the entrance to the site from Durham Railway Station, the provision of a high quality gateway fronting onto A691/B6532, the incorporation of bus, pedestrian and cycle routes, and the encouragement of use of Park and Ride Schemes. The policy also makes provision for the release of part of the site from the Green Belt.
22. 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 the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
23. Policy 22 (Durham City Sustainable Transport) seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area.
24. Policy 29 (Sustainable Design) 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.
25. 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.
26. Policy 39 (Landscape). Proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where

it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

27. Policy 40 (Trees, Woodlands and Hedges). Proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
28. Policy 41 (Biodiversity and Geodiversity). Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.
29. 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.
30. The Council's Parking and Accessibility Standards Supplementary Planning Document (PASPD) supports Planning Policy 21 (Delivering Sustainable Transport) of the County Durham Plan and should be read in conjunction with the Councils Building for Life SPD, Residential Amenity SPD and the Highway Design Guide. The PASPD sets out guidelines for car and cycle parking that are to be applied equally across the county and for development to be situated within an accessible location.

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

NEIGHBOURHOOD PLANNING POLICY:

Durham City Neighbourhood Plan

31. Policy S1 (Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions) sets out the economic, social and environmental criteria that development proposals will be required to meet to: Promote economic well-being, to Conserve, preserve and enhance the neighbourhood, to increase resilience to climate change, and secure equity and benefit to the local community.
32. Policy E1 (Ayckley Heads Business Park). Proposals for development of B1a and B1b uses will be supported at the Ayckley Heads site shown in Proposals Map 5 where these are in accordance with a masterplan or other design and development framework prepared under Policy S2.
33. Policy T1 (Sustainable Transport Accessibility and Design) seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility, impact and design.

34. Policy H2 (The Conservation Areas) seeks to ensure development proposals within or affecting the setting of the Durham City Conservation Area sustains and enhances its significance as identified within the Conservation Area Appraisals.

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhood-plan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=637630042066500000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

35. The Highway Authority raises no objection to the application noting that while currently marked out as a car park, this particular area is no longer used for parking, and the previous member and Councillor parking has been relocated elsewhere within the County Hall site. In terms of pedestrian accessibility and connectivity to the main thrust of the existing school site to the west of the A167 they note that pedestrian access already exists on the A691 and this provides safe access from the main St Leonard's site across to the proposed location.

INTERNAL CONSULTEE RESPONSES:

36. DCC Environmental Health (Nuisance Action) raise no objection to the application.
37. DCC Environmental Health (Contaminated Land Section) raise no objection to the application.
38. DCC Ecology Section raise no objection to the application noting that the applicant has provided information which seeks to demonstrate that the proposal would fall within the scope of works listed which can be considered exempt from requirement to deliver a minimum of 10% biodiversity Net Gain. They do however note a requirement for planning conditions which require the temporary use to cease, and the land reinstated to its previous biodiversity value within 2 years of the date of any planning permission.
39. DCC Landscape raise no objection to the application subject to the inclusion of planning conditions which require that the tree protection measures submitted in support of the application be secured via planning condition and are implemented prior to the commencement of development and for the duration of any construction works.
40. DCC Corporate Property and Land have not responded.

PUBLIC RESPONSES:

41. The application was advertised by way of site notice, press notice and neighbour notification letters sent to nearby properties. No representations have been received in response.

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 searching the application reference number at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

APPLICANT'S STATEMENT:

42. Following the discovery of Reinforced Autoclaved Aerated Concrete (RAAC) within a number of the St Leonard's Catholic School's existing buildings during 2023, many pupils are now being taught in temporary accommodation. The Department for

Education's 'School Rebuilding Programme' was set up to address the needs of schools in need of major rebuilding or refurbishment, and BAM Construction Ltd has been selected by the DfE to deliver the new school at St Leonard's. The proposed new school development involves the demolition of the existing school buildings, and the construction of a new state-of-the-art new school. Those proposals seek to urgently return pupils to a permanent, high quality new facility at a single site and are currently subject to a separate full planning application, but are unlikely to be completed until 2026.

43. In the interim, further accommodation is needed to ensure continuity of education for the School's pupils. The existing car park at County Hall has been identified as an appropriate site for such a use. There is no requirement to seek planning permission for the erection of temporary school buildings on the car park site by virtue of Class CB of the General Permitted Development Order 2015. However, the relevant Permitted Development Rights do not categorically permit the 'use' of these buildings for the purpose of the provision of education. In view of this legislative oversight, the subject application seeks planning permission for the temporary change of use of the members, staff and visitors' car park at County Hall for 'the provision of education'.
44. It is intended that the proposed temporary change of use should expire in October 2026, reflecting the date by which any buildings erected pursuant to Class CB must be removed. This can be secured by way of planning condition.
45. For the avoidance of doubt, no operational development is the subject of this full planning application. Any new buildings subsequently provided on the site will be developed by virtue of Permitted Development Rights.
46. Therefore, and by virtue of its temporary nature, this application for the change of use of the car park site has been shown to satisfy all relevant planning policy considerations, as set out within the statutory development plan. In particular, the development clearly aligns with the Government's aspiration to improve and alter schools as set out within the NPPF at Paragraph 99, and also the wider social and environmental objectives of the County Durham Plan and Durham City Neighbourhood Plan.

PLANNING CONSIDERATIONS AND ASSESSMENT

47. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the acceptability of the principle of development, impact on the character and appearance of the surrounding area including the Conservation Area and Area of Landscape Value, residential amenity, highway safety and ecology (including biodiversity net gain).

Principle of the Development

48. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP.

49. Policy 2 of the CDP identifies that there are currently 3ha of undeveloped land at Aykley Heads however it details that this excludes areas that are currently in use for employment; notably car parking and buildings associated with County Hall. These 3ha are allocated for B1 uses only. The policies map confirms that these areas are plot C, plot D and plot E of the Aykley Heads masterplan detailed within the submission.
50. Policy 3 of the CDP specifically relates to Aykley Heads and is the key policy in assessing the proposed development. The policy identifies the site as a strategic employment site to deliver high quality office floorspace and confirms that the site as a whole is 9ha in total which includes the 3ha in Policy 2, and a further 6ha which relates to car parking and buildings associated with County Hall. It further recognises within the 9ha is an area of 1ha which is to be released from the Green Belt. This relates to visitor and members car park southeast of County Hall.
51. Whilst the development proposes a use not falling within those identified in Policy 3 of the County Durham Plan, given the temporary nature of the proposal, and that the site would be reinstated to its original condition upon cessation of the proposed education use, the overall aims of the masterplan and Policy 3 of the CDP would not be fundamentally undermined. Therefore, there would not be any conflict with the aims of Policy 3 of the County Durham Plan.
52. The proposed temporary change of use would be operated in direct association with the use of an existing and well-established school site at St Leonards Secondary School, which includes land immediately adjacent to the application site. The school is affected by the discovery of RAAC within existing buildings and as such these can no longer be safely used to provide teaching space. Consequently, there is an urgent requirement to provide alternative teaching accommodation.
53. Having considered a number of options the fastest and most efficient solution was to provide that additional teaching accommodation via temporary demountable classrooms. Locations within the existing school site have been explored. However, the applicant advises that given the limited availability within the existing school site, and the need to make existing buildings safe and allow for construction/demolition activity, there is insufficient space to accommodate these buildings required. Consequently, the school has been forced to seek offsite provision.
54. The application site has been identified as an area of suitable size and is appropriately located immediately adjacent to the existing school, thereby removing the need to transport pupils significant distance which would likely impact learning. The use relates to a temporary period, upon the expiry of which the use would cease, and the land reinstated to its original purpose. As noted, the proposed use would not conflict with any future redevelopment of the wider County Hall site in the medium to long term.
55. In light of the above, the proposed temporary use of the site is considered acceptable in principle and would not conflict with the strategic aims of Policies 2 or 3 of the County Durham Plan.

Impact on the Character and Appearance of the Surrounding Area including the Conservation Area and Area of Landscape Value,

56. The site lies immediately adjacent to the Durham City Centre Conservation Area and an area of High Landscape Value as defined by the County Durham Plan. As such both policies 39 and 44 of the CDP are relevant to the determination of this application. Policy 39 states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the

landscape, or to important features or views. Development affecting Areas of High Landscape Value will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. Policy 44 of the CDP states that great weight will be given to the conservation of all designated heritage assets and their setting and that development which leads to substantial harm to, or loss of, the significance of the asset will only be acceptable where it can be demonstrated that it is necessary to achieve substantial public benefits that outweigh the harm or loss. Development which leads to less than substantial harm will be weighed against the public benefits of the proposal.

57. Policy 44 displays a broad level of accord with aims of Paragraphs 203 and 209 of the NPPF. Policy 203 states that LPA 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. Paragraph 209 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
58. In turn CDP policy 44 and Paragraphs 203 and 209 of the NPPF display a broad level of accord with the requirements of Section 72 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 which requires a Local Authority to have regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
59. In addition, and noting there are a number of mature trees within the application, policy 40 of the CDP is also relevant and states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm and that proposals for new development will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate stand-off distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
60. The development relates solely to the temporary change of use of the site from car park and associated soft landscaping to educational purposes falling within Class F.1(a), in direct association with St Leonards Catholic School which occupies land immediately to the south and west of the application site. As noted, this application relates solely to the use of the land with any subsequent buildings benefitting from RAAC permitted development legislation, introduced to allow affected schools to deliver temporary teaching accommodation to continue to operate effectively. Notwithstanding that any temporary buildings could be installed using permitted development provision, it is not considered there would be any harm to the adjacent Conservation Area or Area of High Landscape Value as well as those small parts of the site falling within those designations in accordance with policies 39 and 44 of the CDP, Parts 15 and 16 of the NPPF and Section 72 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990. Notwithstanding the above, it is noted that the proposed use is for a temporary period of not more than 2 years (to be controlled via planning condition) and any impacts, harmful or otherwise, would not be permanent.

61. There are a number of mature Cherry Trees located within the site which occupy a linear arrangement within what is currently part of the soft landscaping complimenting the existing carpark. The applicant has confirmed these would be retained as part of the proposed change of use, and subject to protection during both the implementation of the planning permission, and also for two years during its proposed use. Precise details of the means of protection have been submitted and are considered appropriate, and implementation secured via planning condition. The Council's Landscape Section raise no objection to the application and as such the development is considered to accord with requirements of policy 40 of the CDP and part 15 of the NPPF.

Ecology (including biodiversity net gain).

62. NPPF Paragraph 186 d) advises 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. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
63. The application was submitted after the 12th of February 2024, the date on which the requirements of the Environment Act 2021, as inserted into Schedule 7A of the Town and Country Planning Act 1990, came into force. However, it is noted that there are a number of exemptions which if applicable, can remove a development from the legal requirement to deliver a minimum of 10% net biodiversity gain through the development. The Environment Act 2021 includes exemptions for permitted development, and the biodiversity metric allows for temporary impacts that can be restored within 2 years to be excluded from calculations.
64. The applicant has advised that the proposed use would operate for a temporary period of no more than 2 years, and that those mature trees within the site would be retained and as such unaffected by the development. This has been evidenced in the submission of a tree protection plan which is accompanied by details of the proposed method of protection. Whilst some areas of grassland would be affected, (in some cases through the siting of temporary, demountable classroom accommodation which is likely to be considered permitted development and excluded from the 10% net gain requirement), those areas affected by the proposed change of use itself would be limited. The applicant has provided sufficient detail to demonstrate that the restoration would be achieved oration within the 2 year period and works to deliver that restoration secured via planning condition. There is no reason to consider this could not achieved and as such the development is considered to be exempt from requirement to deliver 10% net increase in biodiversity net gain.
65. Whilst having some reservations in relation to the deliverability of the restoration within the stated timescales, the Council's Ecologist nevertheless raises no objection to the application. However, in order to ensure the site is satisfactorily restored within the required timescales, a condition should be included which requires the submission and agreement of precise means of restoration prior to the commencement of the use of the site for the provision of education, and that the use cease and the land be restored to its original biodiversity value, no later than 2 years following the first use of the site.
66. Subject to the imposition of conditions, overall, the proposed development would accord with CDP Policy 41, Part 15 of the NPPF and Schedule 7A of the Town and Country Planning Act 1990.

Impact upon Residential Amenity,

67. Policy 31 (Amenity and Pollution) of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that the development can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living conditions. In turn, proposals which will have an unacceptable impact such as overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated. In addition, policy 6a) of the CDP requires new development to be compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land.
68. Paragraph 135 and 191 of the NPPF require new development to function well and add to the quality of the overall area and prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution respectively.
69. The application site forms part of the wider Durham County Council, County Hall site and is framed by the A691 to the west comprises 4 lanes and a soft landscapes central reservation of notable width. As a consequence the nearest residential properties are located approximately 48 metres to the west at North End and the site is also framed as marginally greater distance (approximately 97 metres) to the northwest by dwellings at Old Dryburn Way. To the southwest the nearest residential properties are located at St Cuthbert's Place at a distance of approximately 84 metres.
70. As noted, the school has historically used the playing fields to the south of the site to deliver physical education lessons which is a noise generating use, although this part of the site is currently subject to temporary classroom accommodation associated works to RAAC affected buildings. Taking account of the site context, it is not considered the proposed change of use would have any greater impact to the amenity of surrounding residents from increased noise and disturbance. In terms of greater frequency of comings and goings, whilst in its current form the car park has been used less frequently compared to the pre COVID19 arrangement, historically the area has nevertheless been subject to high levels of vehicular and pedestrian movements associated with the use of County Hall as a regionally important administrative centre.
71. The Council's Environmental Health Section raises no objection to the application and an extensive neighbour notification exercise has generated no objection from nearby residents. As such, it is considered the development would accord with the aims of policy 31 of the CDP and Part 15 of the NPPF in that it would not have any adverse impact upon adjacent occupiers or land use.

Impact upon Highway Safety

72. Policy 21 of the CDP states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with paragraph 116 of the NPPF which requires new development to provide safe and suitable access to the site. Policy 6e) of the CDP requires the proposed development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. Policy 16.2h) of the CDP requires the quantity of cycle and car parking provided to have regard to the council's Parking and Accessibility Supplementary Planning Document (PASSPD).

73. The proposed educational use would utilise the existing access from the roundabout to the northwest of the site and the existing exit that serves the wider County Hall site. Pedestrian access, and access by school pupils and staff, would be via the existing arrangement using the signalised pedestrian crossing at the A691 which operates for the schools playing field site to the south.
74. The Highway Authority considers the use of both the existing access from the roundabout and the signalised pedestrian crossing to be acceptable in highway safety terms and raises no objection to the application as a consequence.
75. In light of the above, it is not considered that the development would have a detrimental impact upon highway safety in accordance with the aims of policy 21 of the CDP and paragraph 116 of the NPPF.

CONCLUSION

76. It is considered that the principle of the proposed use of the site for the provision of education falling within Class F.1(a) of the Town and Country Planning (Use Classes) Order 2021 is acceptable.
77. The proposed scheme would be compatible with surrounding land uses and will be occupied in direct association with the use of an adjacent school site and deliver teaching urgent accommodation as a result of the discovery of RAAC affected buildings within the existing school site.
78. The use would not result in any harmful impacts to residential amenity, visual amenity, highway safety or the biodiversity value of the existing site in accordance with the requirements of policies 21, 29, 31, 39, 40 and 41 of the County Durham Plan (CDP), Policy T2 of the City of Durham Neighbourhood Plan (DCNP) or Parts 9, 12 and 15 of the NPPF.
79. In addition, the development would preserve the special character of the adjacent Conservation Area as well as the small part of the site which falls within that designation in accordance with the requirements of policy 44 of the CDP, H2 of the DCNP, Part 16 of the NPPF and Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Public Sector Equality Duty

80. 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.
81. 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 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 Policies 6, 16, 21, 29, 31 and 44 of the County Durham Plan and Parts 2, 4, 8, 9, 12, 15 and Part 16 of the National Planning Policy Framework.

3. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

4. No later than 2 years following the first commencement of the educational use of the site hereby approved, that use shall cease, and the site be returned to its condition prior to the commencement of the development.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

5. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, the site to which this permission relates shall be used solely for the provision of education falling within Class F.1(a) and for no other use.

Reason: In the interests of residential amenity and to ensure the LPA has opportunity to appropriately consider the impacts of any alternative use falling within Class F of the Town and Country Planning (Use Classes) Order 2021

6. Within 12 months of the commencement of the use hereby approved, a scheme detailing the precise method of reinstating the site to its biodiversity value prior to the sites use for the provision of education, shall be submitted to and agreed in writing by the Local Planning Authority. The submitted scheme shall confirm the biodiversity value of the site prior to the commencement of the use and provide a detailed methodology and timescale for reinstatement. Thereafter, the approved scheme shall be fully implemented prior to the expiration of the 2 years following the first use of the site for the provision of education referred to in condition 4.

Reason: To ensure the development has no long-term adverse impact to the biodiversity of the site in accordance with the requirements of policy 41 of the CDP, Part 15 of the NPPF and Schedule 7A of the Town and Country Planning Act 1990.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application 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. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

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

Statutory, internal, and public consultation responses

The National Planning Policy Framework (2023)

National Planning Practice Guidance Notes

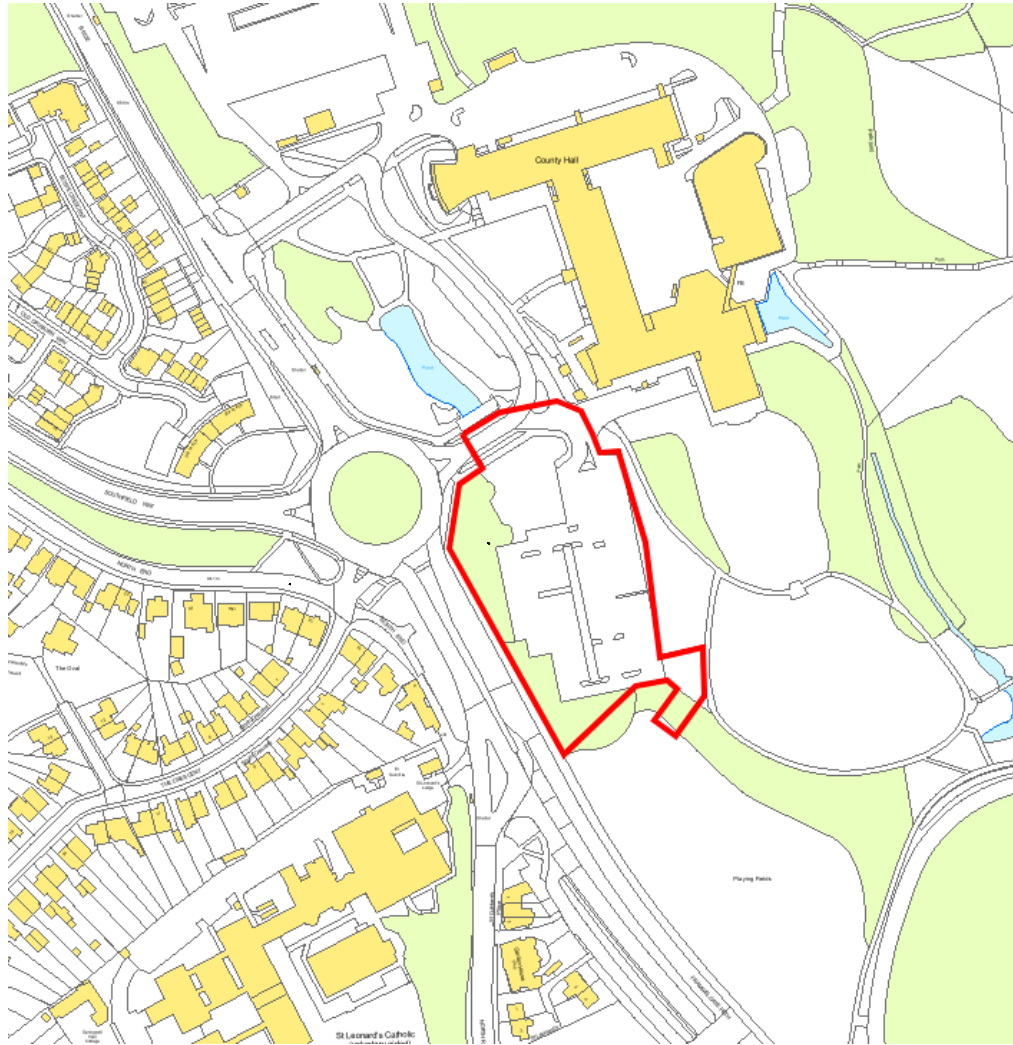
Technical housing standards – nationally described space standard (2015)

County Durham Plan (2020)

Durham County Council Parking and Accessibility SPD (2023)

Environment Act 2021

Town and Country Planning Act 1990



Planning Services

Temporary change of use of car park for use by a school for a purpose falling within Class F.1(a)(provision of education)

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Date 09 January 2024

Scale NTS