

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: 4/12/00281/FPA

FULL APPLICATION DESCRIPTION: Change of use of No. 81 from existing B1 office and Nos. 82-88 from C3 dwellinghouses to D1 non-residential institution to provide drug and alcohol treatment centre together with associated erection of entrance canopy and fire escape canopy on front elevation and landscaping works

NAME OF APPLICANT: Durham Drug & Alcohol Commissioning Team

ADDRESS: 81-88 Whinney Hill Durham DH1 3BQ

ELECTORAL DIVISION: Elvet

CASE OFFICER: Henry Jones
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DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to Nos. 81-88 Whinney Hill, a grouping of currently vacant two storey brick built terraced properties. The properties each have a small front curtilage with frontage set back from the highway. Further yard spaces are located to the rear of each property.
2. The site is located within the Durham City Centre Conservation Area. The application site is located at the northern end of Whinney Hill immediately adjacent the prison with the prison wall to the rear of the properties beyond a back lane. Residential properties lie to the immediate south and opposite to the east is the currently vacant Whinney Hill School site.

The Proposal

3. This application seeks planning permission for the change of use of the existing properties for the purposes of a drug and alcohol treatment centre falling within the D1 non-residential institution use class. Some minor external works in association with the change of use are also proposed, namely the erection of a new entrance porch and fire escape canopies, some replacement and bricking up of doors and windows, new gates,

repairs to roofs and chimneys, replacement rainwater goods and landscaping of the front curtilages of the properties.

4. This application is being referred to Committee at the request of the Local Divisional Member.

PLANNING HISTORY

5. Planning permission was granted for the change of use of No. 81 from residential occupation to an office use in 2000.

PLANNING POLICY

NATIONAL POLICY

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
8. The following elements are considered relevant to this proposal;
9. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
10. *NPPF Part 4 – 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.
11. *NPPF Part 7 – Requiring Good Design.* 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.
12. *NPPF Part 8 – Promoting Healthy 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.
13. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from

renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.

14. *NPPF Part 11 – 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.
15. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at:

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

REGIONAL PLANNING POLICY

16. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008,* sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal.
17. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies when the forthcoming Local Government Bill becomes law. Both the RSS and the stated intention to abolish are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. Policies of particular relevance to this application are as follows:
18. *Policy 2 - Sustainable Development* planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
19. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
20. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
21. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.

22. *Policy 24 - Delivering Sustainable Communities* states that planning proposals should seek through design to promote social cohesion, reduce inequalities as well as meeting sustainable development objectives.
23. *Policy 32 - Historic Environment* requires planning proposals to conserve and enhance the historic environment.
24. *Policy 33 - Biodiversity and Geodiversity* requires planning proposals to ensure that the Region's ecological and geological resources are protected and enhanced to return key biodiversity resources to viable levels.

LOCAL PLAN POLICY: (City of Durham Local Plan 2004)

25. *Policy E6 - Durham City Centre Conservation Area* states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
26. *Policy E16 - Protection and Promotion of Nature Conservation* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
27. *Policy E22 - Conservation Areas* seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
28. *Policy H13 - Residential Areas – Impact upon Character and Amenity* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
29. *Policy T1 - Traffic – General* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
30. *Policy T10 - Parking – General Provision* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
31. *Policy C2 - Health Centres, Surgeries and Clinics* seeks to ensure that development accords with criteria of accessibility and standards of amenity.
32. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility* states that the layout and design of all new development should take into account the requirements of all users.

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:

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

33. The Highway Authority has raised no objections to the use at the location, access or parking arrangements.

INTERNAL CONSULTEE RESPONSES:

34. Environmental Health has raised no objections.
35. Local Plans consider that support can be found for the development within both the Local Plan and the NPPF and no objections are raised to its location.
36. Design and Conservation raise no objections to the development though recommendations are made to make the entrance canopy of a more lightweight design.
37. The Councils Travel Planning Officer has commented on the proposals and has requested that cycle parking is covered, that parking arrangements need clarification and the travel plan needs to include a specific set of detailed proposals.
38. Ecology have raised no objections to the submission, the recommendations within the submitted bat survey should be conditioned on any approval.
39. The Police Architectural Liaison Officer has commented on the application and considers that such a treatment centre would not normally be located within a residential area due to the differences between the two types of usage, in residential areas it is important to promote a sense of neighbourliness.
40. It is considered to be difficult to compare William Robson House and the proposed site as William Robson House is in less of a residential area. The Police Architectural Liaison Officer is not aware of any long term or serious problems at William Robson House. The Police Architectural Liaison Officer has been unable to find any data or case studies on the effect of drug treatment centres on local crime, however, some treatment centre visitors will be active criminals and this will lead to a dramatic increase in the fear of crime even if none is committed.
41. Although not a material planning consideration there could be an effect on property prices and could seriously increase local tensions and add to resentment of local people. Parking can be a major source of neighbour disputes and anti-social behaviour also needs careful consideration. If the proposal goes ahead, efforts should be made to micro manage the centre preventing parking issues and loitering outside the building.

PUBLIC RESPONSES:

42. Twelve letters of objection including a petition of 48 signatures have been received in objection to the application.
43. Objection has been raised with regards to parking and highways implications, concern over crime, anti-social behaviour, dispensing of needles and the suitability of locating

such a use in a residential area particularly one where vulnerable elderly and students reside. It is also considered that the applicant's consideration of the concerns of the use is overly simplistic and unfounded with an absence of facts and figures to demonstrate the suitability of the use at the location or any well resolved management strategy.

44. Objection is raised to the considered contradictory comments of the Highway Authority where it would appear that objections were raised initially and then rescinded for seemingly no reason. Objection is raised to the response made by the Area Planning Team (Local Plans).
45. It is considered that the site could be used for other more suitable purposes namely family housing or social housing given the housing shortage or demolition of the buildings and provision of a car park. A treatment facility such as that proposed should be located elsewhere at a hospital or in a city centre location like as now along Claypath.
46. Concerns are raised over the impact of the proposal development upon the redevelopment of the former Whinney Hill School site and more generally upon the attraction of families to the Whinney Hill area.
47. A respondent has provided details of the concerns of a local residents group in Peterlee where a similar facility is considered to have created a needle discarding problem and a body of an overdosed man was found in the area.
48. Objection has been raised at the public consultation exercises undertaken by the applicants.
49. Objections are raised to some details of the submission with the original description of the development was considered incorrect as nos. 82-88 were last understood to be used as residential occupation not as offices. It was understood that the facility would not be open at weekends following the consultation exercise however, the application submission does propose some weekend opening. It is claimed that visitors from Sherburn will use public transport but the nearest bus stop does not have a service to Sherburn. The application documents state that the revisions to the entrance are to provide status and purpose but this conflicts with the aim of keeping the use discreet as explained with regards to William Robson House.
50. It is considered that the number of proposed users could exceed the submitted figures. It is understood that the job centre on Hallgarth Street is likely to close so the applicant's suggestion that the two sites can be visited at the same time would unlikely occur. It is understood that the reason for relocation is that they can obtain the buildings for a "pepper corn" rent. The reasons provided within the documentation of proximity to the prison, location and transport links are disagreed with.
51. Respondents have disagreed with the claim made by the applicant that existing similar facilities in the district are located within residential areas.
52. Objection is raised to a lack of impact assessment submitted with the application. Objection is raised to the NHS policy of no-smoking on site which will cause smoking in the street adjacent the property.
53. Objection is raised to the considered failure of the prison to correctly upkeep the properties.

54. The application is considered to conflict with the provisions of the Local Plan, The Sustainable Community Strategy for County Durham 2010-2030, the NPPF and the Councils regeneration aspirations.
55. Objections have been made to the supporting documentation which the applicants have submitted seeking to address some of the public objection. It is considered that the applicants have attempted to disassociate the application site from the residential area of Whinney Hill but the properties formerly occupied by prison officers are clearly part of the residential area. The car park opposite the site is not considered to contain the prison parking security office as stated within the applicants enclosures. The former Whinney Hill School site is not considered to be wholly redundant as claimed by the applicant as it has been used in TV productions. The Whinney Hill Community group have taken exception to the applicants claim that the public opposition is essentially nimbysm. Though CCTV monitoring is welcomed as a crime deterrent it does not extend to the wider community and street frontage.
56. A total of nine letters of support have been received with regards to the application including letters from members of the public but also letters of support have been received from various bodies including the Health and Protection Agency, the Prison Service and the Ministry for Justice. The letters of support make reference to the need for an accessible drug service to support the treatment of drug users. Locating services near prisons provides advantages and ease of serving prisoners who are/have used drugs to aid with social reintegration. The facility would provide a benefit to the Durham Drug and Alcohol Commissioning Team by removing the existing expensive leasehold at their current site and allow for fostering of closer working relations between them and the Counselling, Assessment, Referral, Advice & Throughcare Service. Some local respondents have stated that residential properties are set a reasonable distance from the site and that such facilities are needed in the City. It is understood that the existing site at William Robson House has not caused any problems in the local area.
57. The MP has also submitted a letter with regards to the application, no support or opposition is shown but emphasis placed on the need for the views of the community to be carefully considered in the determination of the application.

APPLICANTS STATEMENT:

58. The applicant has submitted a Design and Access Statement, Planning Statement and additional supporting statements including a residential amenity addendum report in support of the application.
59. The proposed development at the site is considered to accord with relevant local, regional and national planning policies. The facility would replace the existing treatment centre at William Robson House on Claypath. The proximity of the site to the prison will ensure that it can support the objectives of the Integrated Drug Treatment Centre.
60. External works are considered appropriate and would preserve the character and appearance of the Conservation Area. The site is considered to be suitably accessible being close to the City Centre and public transport links. Some additional parking spaces are to be provided at the site with further spaces allocated on HMP property though it is expected that clients visiting the centre would not use private cars with other modes of transport encouraged.
61. In terms of the impact of the development upon residential amenity and any perceptions of crime it is considered that fear of crime should only be considered as real if there is quantitative and substantive evidence to suggest that the proposed development would

affect the levels of crime in an area. Evidence from the existing 7 DACT treatment centres across County Durham show that reports of incidents are low and that there is no justifiable concern that the proposed centre will increase the level of crime in the area. Those clients using the centre have requested the treatment and attend of their own free will.

62. In terms of security arrangements, to the rear of the properties regular prison officer and dog patrols of the external prison walls occur and the area is also monitored by 24hr surveillance cameras. The proposed treatment centre will also incorporate its own CCTV cameras and intruder alarm system.
63. Emphasis is also placed on the risk management approach to clients where referred service receivers are screened for any potential risks. Any inappropriate behaviour such as threatening or intimidating behaviour within or in the vicinity of the site would not be tolerated and appropriate sanctions put in place, potentially resulting in a client's exclusion from the treatment service.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:
<http://217.23.233.227/WAM/showCaseFile.do?action=show&appType=planning&appNumber=4/12/00281/FP>
[A](#)

PLANNING CONSIDERATIONS AND ASSESSMENT

64. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, impact upon the character and appearance of the Conservation Area, impacts on residential amenity and public perceptions on crime, ecology, and highway safety.

The Principle of the Development

65. The proposal seeks the change of use of existing properties 81-88 Whinney Hill to create a drug and alcohol treatment centre. Such a use falls into the D1 use class category of the Use Classes Order which incorporates amongst other uses clinics and health centres.
66. Local Plan Policy C2 specifically relates to health centres and clinics. Policy C2 accepts the principle of new clinic and health centre uses within settlement boundaries provided it is well related to residential areas, does not cause harm to amenity of nearby occupiers, does not cause harm to highway safety, is located close to public transport routes and is accessible by a choice of means of transport and also provides level access.
67. The application site is located close to residential areas being sited within Whinney Hill in a location where the character changes from a City Centre makeup with a mix of uses to a leafy residential suburb. A bus stop is located close by with service to Durham whilst the edge of city centre location means that other bus routes including those from the bus station are a relatively short walk away.
68. Key matters relating to residential amenity and highways issues are discussed in more detail separately within this report. However, in principle, the reuse of previously developed land within a settlement boundary for the purposes of a D1 non-residential

institution close to residential property and transport links can on the surface be considered acceptable having regards to the provisions of policy C2 of the Local Plan policies 2, 4 and 7 of the RSS and the principle of sustainable development running through the NPPF.

Impacts upon Residential Amenity, matters of Crime and the Fear of Crime

69. Although seeking planning permission for a D1 use, this proposal specifically relates to the formation of a drug and alcohol treatment centre to replace the existing facility at William Robson House located off Claypath in Durham City Centre.
70. The facility would provide a broad range of services to clients seeking treatment for drug and alcohol misuse and this would include counselling and advice, support group work complementary therapies, harm minimisation including needle exchange and prescribing (though any drugs or medication prescribed would be collected from a pharmacy not the proposed facility).
71. Policies C2 and H13 of the Local Plan seek to ensure that the new developments and changes of use to such a facility would not cause harm to the amenities of local residents. Part 8 of the NPPF seeks to promote healthy communities and seeks to ensure safe and accessible environments where crime and disorder, and the fear of crime do not undermine quality of life or community cohesion.
72. Fear of crime is a material planning consideration. Much public opposition to the application relates to concerns over crime and anti-social behaviour and emphasis is made with regards to potentially vulnerable local residents such as students and the elderly.
73. The Police Architectural Liason Officer at Durham Constabulary has been consulted on the application and considers that such a treatment centre would not normally be located within a residential area due to the differences between the two types of usage, in residential areas it is important to promote a sense of neighbourliness. The Police Architectural Liason Officer is not aware of any long term or serious problems at William Robson House. The architectural liason officer has been unable to find any data or case studies on the effect of drug treatment centres on local crime, however, some treatment centre visitors will be active criminals and this will lead to a dramatic increase in the fear of crime even if none is committed. Although not material concerns are also raised that local tensions and levels of resentment could be increased through the affect on local house prices and also through competition for parking spaces.
74. During the course of the application the applicants have sought to support the proposal with commentary and response on the matters of residential amenity and concerns over crime. The applicants consider that a fear of crime is subjective and should only had regard to if there is quantitative and substantive evidence as to whether the fear of crime is justified. The existing similar centres across the County including the facility at William Robson House which this proposal would replace have low incident levels with no recorded incidents at that particular site over the last 12 months. The applicants consider that in planning use class terms the development will provide a medical centre and associated office space, such a use raises no fear of crime concerns. The fear of crime which has been raised focuses upon users of the facility only and the applicant considers this to be a subjective and stigmatised viewpoint. The applicant has also submitted information seeking to demonstrate that the public perception of crime is somewhat inaccurate with surveys showing that a large proportion of the public consider crime to have risen in recent years though statistics actually show crime to have fallen

nationwide consistently since 1996. Criticism at the accuracy of the views of the police architectural liason officer are also made.

75. Officers can however, fully appreciate the concerns that some public respondents and the police architectural liason officer have made with regards to fear of crime. The impact of the development and potential increase in fear of crime should be taken seriously and not be easily discounted.
76. The application submission includes a document published by the NHS National Treatment Agency for Substance Misuse "Breaking the Link: The role of drug treatment in tackling crime". The document explains that the link between problem drug use and crime is complex but that evidence shows that drug users are responsible for a large percentage of acquisitive crime. The document explains how the activity of drug users can have a significant impact on local crime figures and drug use in a community can lead to anti-social behaviour, drug dealing and other activities harmful to a community.
77. It is therefore considered that the concerns expressed in some public responses should be taken seriously in the decision making process and should not be dismissed as suggested at times by the applicant as unfounded and stigmatised.
78. The key consideration is the likelihood of the proposed centre causing an imposition of drug takers and alcohol users in the local area that would create a probable crime issue or cause such high levels of fear of crime that the community would be seriously undermined.
79. The Police Architectural Liason Officer has stated within his comments that he has found no statistics or evidence that crime increases within areas where drug and alcohol treatment centres are located. In addition the liason officer has also stated that he is unaware of any problems which have emerged in the Claypath area as a result of the treatment centre at William Robson House. The applicants have supplied some details on other centres within County Durham stating that reports of incidents are low with no incidents emerging at William Robson House in the last 12 months. The findings of the architectural liason officer and the details disclosed by the applicant suggest that other centres most notably William Robson House are not causing any local crime or amenity problems.
80. However, the evidence disclosed by the applicant is not particularly clear or necessarily convincing, a point raised within some public responses. Some public responses also refute claims that such centres do not cause problems in the local community with details provided on a centre a Peterlee that there has been a needle discarding problem and the body of an overdosed drug taker was found in the area whilst the Claypath newsagents have reported loitering in association with William Robson House. In turn the applicants have contested these claims stating that the drug taker was not a client of the centre in Peterlee and that they have contacted the newsagents and no claims of loitering have been made with regards to William Robson House.
81. The site itself would benefit from good surveillance due to its proximity to the prison. The prison walls to the rear of the site are patrolled by guards with dogs and the prison perimeter has CCTV coverage. It is also proposed as part of the conversion of properties to the centre that CCTV would also be installed on the premises. Some residents point out however, that though the centre itself may have good surveillance this does not extend to the surrounding residential properties where the problems are perceived.
82. The applicant has sought to supply some documentation to provide better understanding of the manner in which the centre works and precautions taken to reduce

and address negative perceptions of the site. The application submission details the risk management which is undertaken by staff at such centres to evaluate the likelihood of problem clients. It is also emphasised that those visiting the centre do so at their own will and are therefore seeking help. The details submitted with the applications also show that any clients causing problems or nuisance can be banned from using the facility. Other manners in which the facility operate may go some way to easing concerns. Prescription drugs are not provided at the centre but would have to be collected elsewhere at pharmacies which should reduce the likelihood of the centre being a target of break-ins to steal drugs and medication. Although the centre will provide a needle exchange facility this only occurs within the building in the presence of staff. The facility will not have a form of unmanned needle drop off which some centres and facilities can raise particular concerns over discarded needles. The applicants have sought to emphasise that it is important to consider that prisoners are consistently being released into the Whinney Hill area. Therefore any fear of crime from the imposition of the facility and client visits should be balanced against the existing and historical release of individuals into the area with a criminal background. In terms of the loitering of individuals it is considered by the applicant's that clients will upon leaving the centre be much more likely head for the City Centre than travel up the hill to the residential areas of Whinney Hill.

83. Officers do consider that the centre would likely bring more broad benefits in tackling substance misuse. The application has been accompanied with documentation and letters of support from the likes of the Prison Governor and the Ministry of Justice seeking to explain how this development would aid with the ongoing holistic support and treatment of substance misuse. Letters of support make reference to the centre providing a vital link between the delivery of a treatment service to released prisoners seeking to reintegrate into the community. Essentially the application seeks to demonstrate that this proposal would provide a better treatment service to contribute to the reduction in substance misuse and its related negative consequences.
84. The application also now includes details of a further planned community involvement programme to help ease fears and better integrate the centre into the community. The applicant has stated that prior to the opening of the premises an open day is planned, further leaflet drops and opportunity for the community to attend monthly meetings at the centre to discuss any matters relating to the centres integration into the area. Consultation will also be held on the naming of the centre as this also of concern to local residents. Some public objection has been raised at the applicants public consultation exercises thus far, so this should go some way to addressing this.
85. The consideration of the implications of the proposed centre on crime, the fear of crime, local amenity and community cohesion is a key consideration in the application. It should also be considered, however, that the planning application would effectively be granting planning permission for a D1 use and that a use classification does not distinguish between different user groups but is derived from the grouping of uses with similar characteristics. Some weight should be attributed to the fact that a D1 use could involve the setting up a doctors surgery rather than a specific drug and alcohol treatment centre. A use such as a doctors surgery although also in the D1 use classification would unlikely give rise to significant amenity and fear of crime considerations despite the fact that similar services and treatments could be provided at such a surgery albeit in a more discrete manner under the umbrella of a more general practice.
86. In conclusion, from the response of the Police Architectural Liason Officer there appears a lack of evidence that such a centre would cause an increase in crime in the community to recommend refusal. The centre itself should benefit from a high degree of surveillance including by virtue of its proximity to the prison. The proposal would likely deliver wider benefits through an improved treatment service across the district. It is

also acknowledged that the planning permission would effectively grant a D1 use which can encapsulate a broad range of similar uses unlikely to give rise to amenity concerns. The applicant is proposing ongoing interaction with the community to ease fears, widen understanding and setup ongoing dialogue to help with the integration of the centre. On balance officers consider that having considered the application as a whole the fear of crime and amenity concerns surrounding the proposal though understandable and significant, would not on the evidence presented warrant refusal of the application.

Highways Issues

87. Policy T1 of the Local Plan relates to highway safety and part 4 of the NPPF seeks to promote sustainable transport. Policy C2 of the Local Plan also requires that new clinics and health centres do not cause harm to highway safety.
88. Matters of parking provision and highways issues are another key concern within the public responses on the planning application. Objection is raised to the potential parking problems at the site and confusion is expressed at the considered conflicting Highway Authority responses. Objection is also raised to some application documentation which states that clients could be attending from Sherburn but there is no direct bus service from Sherburn to the centre itself.
89. In terms of highway safety the Highway Authority have raised no concerns. The application site is located within an area of controlled parking and as a result parking would be regulated. Policy T10 of Local Plan deliberately seeks to restrict parking so as to encourage other modes of transport use and reduce the land take of development.
90. Officers also note the transport statement submitted with the application which includes survey work seeking to demonstrate how clients visiting the existing site at William Robson House do not use private vehicles. The site is within a short walking distance of the City Centre and it is considered that there is easy access to public transport.
91. The Councils Travel Planning Officer has commented on the proposals and have requested that cycle parking is covered, that parking arrangements need clarification but that it is not understood why additional spaces are required and the travel plan needs to include a specific set of detailed proposals.
92. The applicant has sought to clarify parking levels as there has been some conflicting information supplied in the application. The final documentation on the parking from the applicant is that a total of 9 no. additional dedicated spaces are being proposed with 4 no. spaces within rear yards, 2 spaces to the rear of this and 3 no. spaces allocated within the adjacent prison car park. The parking spaces within the adjacent prison car park are not within the application site and though the prison may have allocated these spaces this could only be ensured via the attachment of a condition. However, the Highway Authority had prior to the confirmation that these spaces were available considered that the development and parking arrangements were satisfactory making reference to the controlled parking in the area. It is therefore not considered necessary that a planning condition ensures the allocation of spaces at the adjacent car park.
93. The applicant has stated that cycle parking can be covered if sought and officers can add a condition to any approval to resolve this. A condition can also be attached to any approval to resolve the travel plan so that it meets the standard of the Councils Travel Planning Officer.
94. Overall no objections on the grounds of highway safety are raised.

Impacts upon the Character and Appearance of the Conservation Area

95. The application site lies within the Durham City Conservation Area and Policies E6 and E22 of the Local Plan supported by Part 12 of the NPPF seek to preserve or enhance the character, appearance and setting of the Conservation Area. Furthermore Policy H13 of the Local Plan and Part 7 of the NPPF seek to ensure that development proposals are appropriate in design terms.
96. This application principally relates to a change of use and external and physical alterations are relatively limited. The main alteration is the provision of a new entrance and fire escape canopies. Other works proposed include some replacement and bricking up of doors and windows, new rear gates, repairs to roofs and chimneys, replacement rainwater goods and landscaping of the front curtilages of the properties.
97. Design and Conservation have been consulted on the application raise no objections to the development as such, though recommendations are made to make the entrance canopy of a more lightweight design.
98. The comments of Design and Conservation were relayed to the applicant's agent though amendments to the design have not been made, the proposed canopy entrance considered to remain appropriate and sympathetic to the existing building and roof form.
99. On balance officers consider that the proposed entrance canopy is acceptable and no objections are raised to any of the other more minor alterations, landscaping and repairs. The existing properties are in a state of disrepair and the proposed development in proposing any form of repairs and upgrade to the existing properties is considered to constitute an enhancement therefore in accordance with Policies E6, E22, H13 of the Local Plan, Policy 8 of the RSS and Parts 7 and 12 of the NPPF.

Ecology

100. Saved Policy E16 of the City of Durham Local Plan is aimed at protecting and enhancing the nature conservation assets of the former district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation habitats that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests should be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
101. The application is accompanied by a bat survey report which confirmed that two common bat roosts have been identified.
102. The Ecology Section has no objections to the proposed development subject to appropriate conditions being imposed upon the grant of the planning permission. However when a licence will be required from Natural England, under the requirements of the Conservation of Habitats and Species Regulations 2010 it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England.
103. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2012 requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Case law has established that local planning authorities must

consider whether the applicant might obtain a protected species licence from Natural England. This requires an examination of the derogation provisions. The local planning authority must not usurp the functions of the licensing authority in this regard. It is for Natural England to decide licensing applications; the local planning authority must only be satisfied that there is a possibility of a required license being granted. The 2012 Regulations contain three "derogation tests", which are that the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment; there must be no satisfactory alternative; and favourable conservation status of the species must be maintained.

104. Due to the nature of this proposal which essentially is to install an external canopy and the internal works the applicant's ecologist considers that the works will not disturb the bat roosts and as such not licenceable activity as the mitigation strategy ensures the conservation status is maintained. However the building is providing a valuable health and benefit to the wider community, is located close to the prison in order to improve the health and wellbeing of prisoners and with no adverse comments from ecology subject to the conditioned mitigation it is considered the favourable conservation status of the species will be maintained, in accordance with Policy E16 of the Local Plan and Policy 33 of the RSS.

Other Issues

105. Some public responses consider that the application site should be put to other uses considered more appropriate including either reused as family housing given the understood housing need including in the immediate locality or one respondent considers that the buildings could be demolished at the site used for car parking.
106. Ultimately the application which is put forward by an applicant must be considered on its own merits. The application site is not specifically allocated within the Local Plan for a particular use. The principle of a D1 use is considered to be acceptable at the location having regards to Policy C2 of the Local Plan. Officers therefore do not raise objection to the proposed development on the grounds that a preferred use is considered more appropriate by some respondents. In addition, with regards to the loss of residential dwellings, officers consider that the continuing development of the County Durham Local Plan is assessing housing need and appropriate site allocation in order to meet need. It should also be considered that though the lawful use of nos. 82-88 Whinney Hill is as dwellinghouses the properties have been vacant for a considerable period of time and not used as such.
107. Related to this, objection has been raised to the failure of the prison to adequately maintain the properties. The redevelopment of the site as proposed would address this. It is not considered that the perceived lack of maintenance by the prison on the properties is a reason to raise objection to the redevelopment proposal. Furthermore if the condition of the properties were deemed harmful then separate enforcement enquiries can be made with regards to this by the Local Planning Authority.
108. Objections were raised to the original description of the development which proposed a change of use from office accommodation to the D1 use when actually Nos. 82-88 have a lawful use as dwellinghouses. A revised description and reconsultation process is now considered to have addressed this.
109. Objection has been raised to the public consultation exercise undertaken by the applicant prior to the submission of the application. A public consultation exercise was undertaken by the applicant prior to the submission of the application. An assessment of the quality of the exercise is to a degree subjective. Related to this, objection is

raised to the proposed opening hours which are considered to have changed from the pre-application proposal to that within the formal application. Though effective consultation with local residents is always encouraged by the Local Planning Authority, ultimately a public pre-application exercise is not a compulsory activity that an applicant must undertake and it is not considered that significant objection could be raised to the development proposal because of the question marks raised over consultations undertaken. The proposed opening hours of 9am – 5pm with potential opening mid week as late as 7pm and then 9am -12 noon are considered acceptable with the hours not deemed to be unsociable by officers.

110. Objection is raised to the lack of impact assessment submitted within the application by the Whinney Hill Community Group. Officers are not entirely clear on what form of impact assessment the community group expected to accompany the application. The development was screened and was considered to not require an environmental impact assessment. The application has been considered by officers to include adequate information and documentation to be considered a valid application. The impact of the development is ultimately now to be considered as part of the determination of the application.
111. Objection is raised to the NHS policy of no-smoking on site and that this will potentially lead to smokers spilling out onto the adjacent streets. Officers have raised this question with the applicants and requested that a smoking shelter be erected as part of the development proposals. Unfortunately the no-smoking on site policy is a standard approach required by the NHS and the applicant has been unable to be flexible on this point. Though this is somewhat regrettable officers do not consider that the application could be refused because of the potential of smokers in the vicinity.
112. Some respondents consider that the number of users at the site could exceed the purported figures. The application documents have based client rates on levels currently experienced at William Robson House. Officers consider that as the proposed site is to replace William Robson House it is logical to base expected client numbers upon this. Furthermore the Centre Management Strategy submitted with the application confirms that visitors must have appointments to use the facility. Therefore the number of clients at the centre at any one time would be controlled.
113. Some public objection to the proposal raises concerns more widely over the impact of the development upon the local area such as the impact upon attracting new residents and impact upon the redevelopment of the adjacent Whinney Hill School site. Officers consider that the impacts of the development upon all key material planning considerations such as the character and appearance of the Conservation Area and residential amenity have been discussed in detail elsewhere in the report. Ultimately if impacts upon existing residents and the existing character of the area is considered appropriate then in turn officers consider that the impact upon future occupiers is also considered acceptable and it would therefore not be justifiable to refuse the application on the grounds of harm to attracting new residents to the area.
114. Objections are raised to the submitted reasons for the proposed development. It is not considered that the cited reasons of proximity to the prison, transport links etc are the genuine reasons for the proposed move but it is has more to do with the lower rents that would be available. The applicant has not stated that the lower rent of the proposed site is a reason for the proposed move. However, a letter of support from the Ministry of Justice does state that the Durham Drug & Alcohol Commissioning Team would be able to exit a leasehold of £66, 000 per annum through the move. Officers do therefore expect that there is, at least in part, a financial incentive to the move. However, officers also consider that the move is proposed on the grounds of quality of the treatment

service and that the other benefits such as the closer proximity of the treatment centre to the prison are logical and genuine.

115. Much objection is raised by Whinney Hill Community Group to the supporting documentation accompanying the application. This includes objection to the assessment of the character of the local area within the submitted residential amenity addendum report, objection to the point raised that the former Whinney Hill School site is completely redundant (as TV productions have used the site), objection to the claims that the car park opposite contains a genuine prison parking security office and objection to claims that visitors may use the attend the treatment centre and nearby job centre in the one visit as this is understood to be likely to close. Though the community group may object to the content of and views of the applicant, officers do not consider these issues would warrant refusal of the application in their own right. Debate over matters such as use of the school site or potential for a job centre to close in future are not considered material whilst the adequacy or otherwise of surveillance in the adjacent car park is a matter of residential amenity discussed more widely elsewhere in this report.
116. The applicants claim that other similar facilities are also located in residential areas is also disagreed with by Whinney Hill Community Group. The various centres across the district vary in terms of their proximity to residential property. Some centres could be described to be in less residential areas, for instance the treatment centre at Ridgemount House, Peterlee is in a more commercial area. However, many residential properties are located within close proximity to the centre at Eden House, Consett for example.

CONCLUSION

117. The application proposes a D1 use within a location considered to be sustainable and appropriate for a non-residential institution and as a result officers raise no objections to the development in sheer principle terms. The specific form of D1 use, a drug and alcohol treatment centre has raised concerns over amenity, crime and the fear of crime amongst other matters within the public responses.
118. Officers consider that the concerns of the residents are understandable and the fear of crime is a serious material planning consideration. The fear of crime and the suitability of the site for the development is also questioned by the Police Architectural Liaison Officer.
119. However, equally the Police Architectural Liaison Officer has been unable to find any evidence that crime does increase in areas where such treatment centres are located. The Police Architectural Liaison Officer is not aware the existing facility at William Robson House has generated any crime of anti-social behaviour issues. This is supported, to a degree, by the applicant's claims that incidents at existing treatment centres are low. The application site itself would have good surveillance and the applicants also propose community consultation as the treatment centre becomes established seeking to remedy any issues which may arise.
120. Officers do agree that the improved facilities that the site would bring have wider benefits to substance misuse treatment and in turn reductions in crime.
121. Ultimately a very finely balanced judgement must be made on whether the potential for crime or fear of crime is so high that it warrants refusal of the application balanced against the inherent benefits of the service. To some extent even despite the lack of

conclusive evidence the centre will clearly attract a significant volume of drug users albeit of their own free will to the fringes of this residential community and allow the possibility of interaction on the street given how busy the route is to the prison and university as well as for resident's walking into Durham. Without evidence it is very hard to say this will lead to any increase in actual crime but a fair logical assumption is that the fear of such crime will increase for those local residents. The fact that the prison releases people daily is no defence as clearly this introduces a whole new influx of person's and could create totally different issues of its own. William Robson House is also not directly comparable as this is a bustling City Centre location where service users can easily disperse in a short distance in the wider City environment.

122. However, for the purposes of planning there is no hard evidence on crime or the fear of crime increasing only the subjective concerns of the Police Architectural Liaison Officer and the wider community, furthermore the centre has committed to integration and the liaison group will aide this, ultimately and not forgetting the big DAAT positives this decision is very finely balanced but in conclusion Officers support the application and recommend approval.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:
2010 Rev T1, 2011 Rev T1, 2022 Rev T1, 3020 Rev T1, 3029 Rev T1, 3024 Rev T1, 3025 Rev T1, 3026 Rev T1, 2537-E-301 Rev P2 and 2537 – E- 001 Rev P2 received 6th June 2012.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E6, E22, E16, H13, T1, T10, C2, Q1 and Q2 of the City of Durham Local Plan 2004.

3. The change of use hereby approved and occupation of the buildings shall not occur until a full travel plan has been submitted to and approved in writing by the Local Planning Authority which includes but is not restricted to a detailed set of proposed initiatives and identification of a travel plan coordinator. The development shall thereafter be implemented in accordance with the approved travel plan immediately following occupation..

Reason: In order to encourage sustainable means of travel in accordance with Part 4 of the National Planning Policy Framework.

4. The premises subject to this permission shall not be open for business outside of the hours of 9am to 5pm Monday to Friday with additional opening permitted between 9am to 7pm on one day only between Monday to Friday. On a Saturday, opening hours shall be restricted to 9am to 12 noon with no opening on a Sunday or on Bank Holidays.

Reason: To define the consent and in the interests of preserving residential amenity having regards to Policy C2 of the City of Durham Local Plan 2004.

5. Notwithstanding the information submitted within the application the proposed cycle parking bays shall be of a covered type. Details of the design of the cycle parking bays shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development and thereafter implemented in accordance with the agreed details prior to occupation.

Reason: In the interests of the provision of adequate cycle parking facilities having regards to Part 4 of the National Planning Policy Framework.

6. No development shall take place unless in full accordance with the recommendations detailed on pages 15 and 16 of the submitted bat survey dated August 2012 by Durham Wildlife Services, including but not restricted to, the provision of bat boxes and adherence to timing restrictions.

Reason: To conserve protected species and their habitat in accordance with Policy E16 of the City of Durham Local Plan 2004.

7. Prior to the occupation of the development hereby approved full details of the community liaison group (to include its structure, management plan, consultation, regularity of meetings, aims and objectives, review period) shall be submitted to and approved in writing by the Local Planning Authority. Once approved the liaison group shall be implemented and operated in accordance with the agreed details.

Reason: In the interests of preserving residential amenity, community cohesion and reducing any actual or potential crime impacts in accordance with Policy C2 and H13 of the City of Durham Local Plan 2004, Policy 24 of the Regional Spatial Strategy and part 8 of the National Planning Policy Framework

REASONS FOR THE RECOMMENDATION

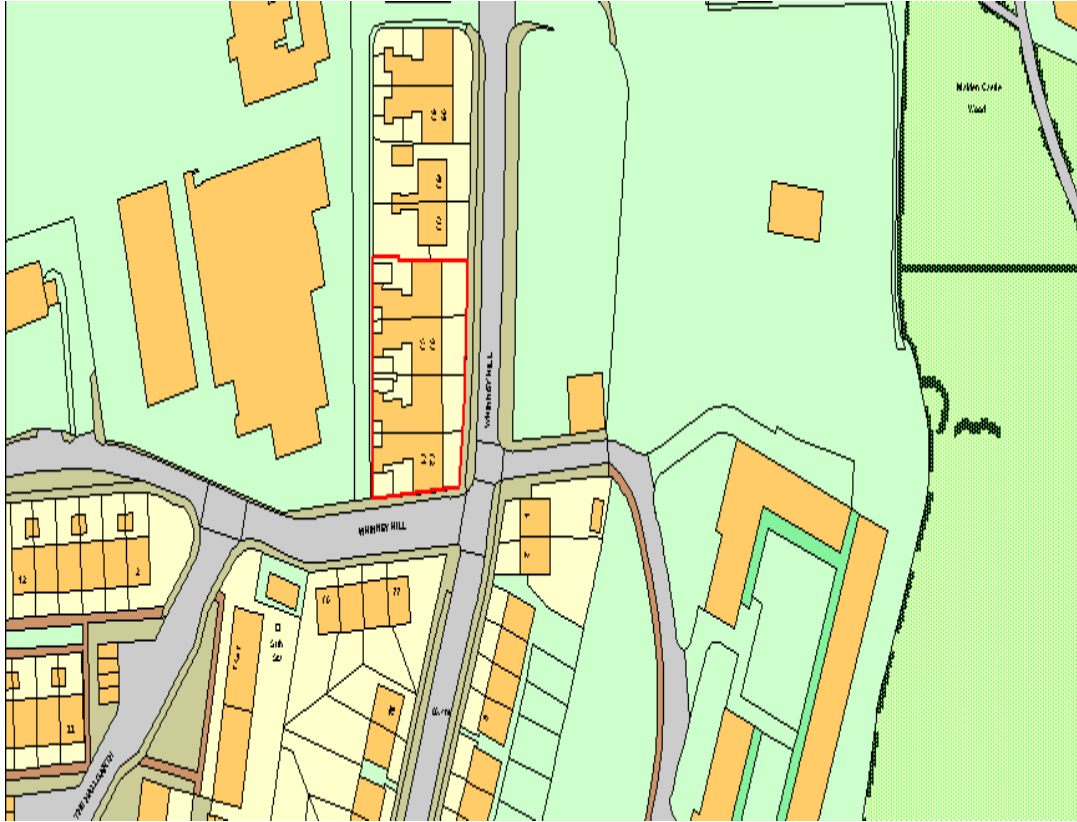
1. The application proposes a D1 non-residential use within a settlement boundary and within close proximity to residential property, the City Centre and public transport links. Key issues have been considered including the impact upon the residential amenity of nearby residents and the potential for an increase in crime or the fear of crime and highway safety. The development is considered to accord with relevant Policies E6, E22, E16, H13, T1, T10, C2, Q1 and Q2 of the City of Durham Local Plan 2004. With regards to protected species the development is considered to accord with the requirements of the Habitats Directive brought into effect through The Conservation (Natural Habitats etc) Regulations 1994.

This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, the City of Durham Local Plan 2004 and the provisions of the National Planning Policy Framework.

2. In particular the development was considered to remain acceptable having regards to the potential impacts upon residential amenity, crime levels and the fear of crime.
3. A total of 12 no. letters and a petition of 48 signatures were received opposing the development on a wide range of grounds most notably regarding residential amenity, crime, the fear of crime, highway safety and content and considered discrepancies within the submission. However, on balance having considered the points raised within the objection letters it is considered that the development proposal remains acceptable and in accordance with local, regional and national planning policy.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
Regional Spatial Strategy
National Planning Policy Framework
Internal consultee responses
Public responses
Response of the Highway Authority
Planning Circular 11/95



Planning Services

Change of use of No. 81 from existing B1 office and Nos. 82-88 from C3 dwellinghouses to D1 non-residential institution to provide drug and alcohol treatment centre together with associated erection of entrance canopy and fire escape canopy on front elevation and landscaping works

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Date 11th September 2012