

# COMMITTEE REPORT

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### APPLICATION DETAILS

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| <b>APPLICATION NO:</b>               | 4/12/00595/FPA   |
| <b>FULL APPLICATION DESCRIPTION:</b> | Demolition of existing buildings and erection of 19 no. dwellings                |
| <b>NAME OF APPLICANT:</b>            | Gentoo Homes Limited   |
| <b>ADDRESS:</b>                      | Arriva Bus Depot Site off Waddington Street and Ainsley Street Durham City       |
| <b>ELECTORAL DIVISION:</b>           | Nevilles Cross   |
| <b>CASE OFFICER:</b>                 | Henry Jones<br>Senior Planning Officer 03000 263960<br>henry.jones@durham.gov.uk |

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application relates to the existing Arriva bus depot located off the junction of Waddington Street and Ainsley Street in Durham City. The application site is located within the Durham City Centre Conservation Area and the majority of the site is located within the settlement boundary of Durham City as defined within the Local Plan. The rearmost sections of the site are located beyond the settlement boundary and encroach into the designated Green Belt. This rearmost section of land also forms a part of a Site of Nature Conservation Importance also designated within the Local Plan. The wooded, hillside backdrop to the application site is known as Flass Vale which contains several public footpaths, is an Area of High Landscape Value, Local Nature Reserve and contains Maidens Bower Scheduled Ancient Monument. The application site also lies close by but outwith of the Nevilles Cross Battlefield site.
2. The site itself covers an area of approximately 0.6 hectares and comprises of a large depot building of utilitarian design, associated offshoots and hardstands. Some trees are also located within the site where the site starts to blend into the heavily wooded Flass Vale beyond. Access is at the eastern end of the site where Waddington Street meets Ainsley Street.

#### The Proposal

3. This application seeks the redevelopment of the Arriva bus depot site with the demolition of the existing buildings on site and replacement with a residential development. The

application for conservation area consent, purely to demolish the existing buildings on site was approved earlier this year.

4. Arriva propose to relocate their premises to a site at Belmont Business Park. This site at Belmont already has planning permission ready for the proposed move.
5. The proposal for the redevelopment of the existing site seeks to erect a total of 19 no. dwellings, 16 of which would be of a townhouse type appearance all 4 bed properties varying between three and four storeys in height. The highest, four storey, properties are located at the eastern end of the site facing down Waddington Street with the front building line slightly farther towards the highway than the existing depot building. Beyond this frontage of the development, rows of terraced/townhouse dwellings are proposed. Opposite, beyond the highway proposed to run through the centre of the site 3 no. mews properties are proposed together with parking spaces and garages. Associated landscaping and garden areas are also proposed within the development.
6. The application is accompanied by a S106 agreement proposing that the 3 no. mews properties are affordable homes and that a financial contribution of £26,000 is made towards public art projects and £19,000 towards play and amenity space.
7. This application is being referred to Committee as it constitutes a major development.

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## **PLANNING HISTORY**

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8. In 2009 planning permission was granted for the erection of security fencing and gates.
9. In September this year conservation area consent was granted for the demolition of the existing buildings on site though this can only occur if a redevelopment scheme is first granted planning permission.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

10. 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.
11. 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’.
12. The following elements are considered relevant to this proposal;
13. *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 21<sup>st</sup> century.

14. *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.
15. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
16. *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.
17. *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.
18. *NPPF Part 9 – Protecting the Green Belt.* The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
19. *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.
20. *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.
21. *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:*

## REGIONAL PLANNING POLICY

22. *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. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
23. 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:
24. *Policy 2 - Sustainable Development* states that planning proposals should seek to promote sustainable development through social, economic and environmental objectives.
25. *Policy 4 - The Sequential Approach to Development* establishes that priority should be given to previously developed land within sustainable locations.
26. *Policy 7 - Connectivity and Accessibility* which requires new development proposals to reduce travel demands, and promote opportunities to use public transport, cycle and walk.
27. *Policy 8 - Protecting and Enhancing the Environment* which requires new development to be of high quality and maintain local distinctiveness.
28. *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.
29. *Policy 30 - Improving Inclusivity and Affordability* sets out that developments should provide a range of housing types and sizes responding to the needs of all members of the community as well as addressing affordability issues.
30. *Policy 32 – Historic Environment* requires planning proposals to conserve and enhance the historic environment.
31. *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.
32. *Policy 35 - Flood Risk* promotes a proactive approach to reducing flood risk and advises that risk should be managed with regards to tidal effects, fluvial flooding and flooding

from surface water runoff. The requirements of PPS25 with regards to the sequential approach and submission of flood risk assessments.

33. *Policy 38 - Sustainable Construction* seeks to promote development which minimises energy consumption and promotes energy efficiency. On major development proposals 10% of their energy supply should come from decentralised and renewable or low-carbon sources.

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

34. *Policy E1 - Durham City Green Belt* outlines the presumption against inappropriate development in the Green Belt in order to preserve its intrinsic openness.
35. *Policy E3 - World Heritage Site – Protection* seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
36. *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.
37. *Policy E7 - Development in the Countryside* advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
38. *Policy E10 - Areas of Landscape Value* is aimed at protecting the landscape value of the district's designated Areas of Landscape Value.
39. *Policy E14 - Trees and Hedgerows* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
40. *Policy E15 - Provision of New Trees and Hedgerows* states that the Council will encourage tree and hedgerow planting.
41. *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.
42. *Policy E18 - Sites of Nature Conservation Importance* seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.

43. *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.
44. *Policy E23 - Listed Buildings* seeks to safeguard Listed Buildings and their settings from unsympathetic development
45. *Policy E24 - Ancient Monuments and Archaeological Remains* sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
46. *Policy E25 - Nevilles Cross Battlefield* seeks to protect and enhance the battlefield site through not permitting development which would adversely affect the interpretation of the battle, seeking the provision of appropriate interpretation material on the battle site and not permitting development harmful to the Conservation Area or scheduled ancient monuments and archaeological remains.
47. *Policy H2 - New Housing within Durham City* states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.
48. *Policy H5 - New Housing the Countryside* sets out criteria outlining the limited circumstances in which new housing in the countryside will be permitted, this being where it is required for occupation by persons employed solely or mainly in agriculture or forestry.
49. *Policy H12 - Affordable Housing* seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha.
50. *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.
51. *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.
52. *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.
53. *Policy T21 - Safeguarding the Needs of Walkers* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will

only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.

54. *Policy R2 - Provision of Open Space – New Residential Development* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
55. *Policy R11 - Public Rights of Way* states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.
56. *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.
57. *Policy Q3 - External Parking Areas* requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed areas of surface, street and rooftop parking are not considered appropriate.
58. *Policy Q5 - Landscaping General Provision* sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
59. *Policy Q8 - Layout and Design – Residential Development* sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
60. *Policy Q15 - Art in Design* states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area
61. *Policy U5 – Pollution Prevention* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constrain the development of neighbouring land.
62. *Policy U8a - Disposal of Foul and Surface Water* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
63. *Policy U9 - Watercourses* states that development which may affect watercourses will only be permitted provided that they do not result in flooding or increase flood risk elsewhere; or they do not result in the pollution of the watercourse; or they do not adversely affect nature conservation interests; or they do not adversely affect the visual appearance of the landscape; and their environmental impact is properly assessed.

64. *Policy U11 - Development on Contaminated Land* sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
65. *Policy U14 - Energy Conservation – General* states that the energy efficient materials and construction techniques will be encouraged.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:*

<http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=494>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

66. Northumbrian Water have raised no objections to the application subject to a sewer crossing the site being diverted or the proposal redesigned so as to avoid building over the sewer.
67. The Highway Authority initially objected to the proposed layout due to concerns over access/egress visibility, the pedestrian routes, material choices, lack of turning area for service/emergency vehicles at the western end of the site, excessive parking provision and location of bin collection points. Since this time much discussion and negotiation has occurred with a revised layout submitted. Highways are now satisfied that the layout includes a suitable turning area for service/emergency vehicles at the western end of the site. There are still concerns raised with regards to the larger square in the centre of the site and that areas would be used for additional parking resulting in excessive parking within the site.
68. The Environment Agency provided some advice with regards to the diversion of culverted watercourses and it was stated that the diversion of such piped watercourses is ordinarily a straightforward operation.

### **INTERNAL CONSULTEE RESPONSES:**

69. The Councils Senior Low Carbon Officer has stated that the standard 10% energy reduction condition should apply to the application.
70. Design and Conservation provided detailed comments on the originally submitted plans and requested some revisions to the design detailing of the proposed dwellings and means of enclosures. It was also stated that some consideration should be given to the further reduction in height of the properties at the western end of the site. Upon viewing the revised plans submitted during the course of the application Design and Conservation submitted revised comments within which the changes to the house types were welcomed and considered a far better example of a Durham aesthetic. The proposed development is considered to have no impact upon the World Heritage Site.
71. Environmental Health have provided comments on the application and have stated that with regards to potential land contamination both a Preliminary Risk Assessment as defined by Environment Agency guidance CLR11 and a Phase II Intrusive Investigation is necessary to obtain environmental samples, confirm the conceptual site model and



establish whether remediation of the site is required. Environmental Health have also provided advice with regards to site working hours, mitigation of noise and dust and material disposal. Finally, Environmental Health consider that as the site is situated close to a declared air quality management area the application should be accompanied by an assessment of the potential impact of the development upon traffic levels together with measures to mitigate impact on air quality.

72. The Council's Senior Tree Officer raises no objections in principle, however, a series of requests are made to seek more clarity of the precise works to some groupings of trees.
73. Archaeology agree with the recommendations of the submitted desk-based assessment and no objections are raised.
74. Landscape have raised some general reservations over a residential development being sited so close to groupings of trees with the properties likely affected by future leaf fall and future residents potentially requesting the felling of trees. The layout would benefit from the removal of plot 17 and the lowering in height of dwellings at plots 16 and 15 to create a greater buffer to Flass Vale and also ease impact upon it. Concerns are raised that a retaining wall will harm trees 11-20 whilst trees 2 and 3 will be impacted upon during construction works. General requests that further tree retention is made and advice on final landscaping scheme, future maintenance and location of bin stores are made.
75. Planning Policy have raised no objections to the principle of the development. But within Durham City 20% affordable housing is sought on a scheme of 15 dwellings or over.
76. Ecology have raised no objections, the submitted ecology report considered acceptable. Mitigation measures recommended within the report should be conditioned on any approval.
77. Asset Management have supplied comments on a development appraisal submitted with regards the proposal. The figures submitted in terms of build costs, incomes, abnormal costs etc are considered to be accurate. It is noted that only 3 affordable units are proposed and have queried the planning departments view on this. The land offer will between Arriva and the developer will be critical though the scheme should remain profitable with an additional affordable home provided. Comments have also been provided on a financial report submitted providing a breakdown of the costs associated with Arriva moving to the site at Belmont. Though it is considered a quantitative surveyor would be best placed to provide detailed comments, as all costs are clearly broken down within expected parameters there is no clear reason to dispute it.
78. Although the comments were received prior to the submission of the formal application during more informal discussions, the Council's Head of Transport and Contract Services previously issued a response in support of the relocation of the Arriva bus depot and redevelopment of the site. The Head of Transport and Contract Services stated that local residents have complained over a number of years with regards to noise, air quality, unsociable hours of work etc. However, also of significance is the impact the location of the depot has on the bus network. The unsuitable nature and location of the existing premises has a direct detrimental impact upon the operation of buses across the County. The move from Waddington Street would result in clear, demonstrable benefits to bus services on logistical and operational grounds. A partnership is being setup between Arriva and the County Council transport service to improve reliability and punctuality and the move to Belmont is seen as a key element.

## **PUBLIC RESPONSES:**

79. In total three letters of representation have been received.
80. The City of Durham Trust considers that the residential development is arguably preferable to the existing bus depot, however, the convenient access has been lost and there is a lack of the full affordable housing. It is suggested that mansard roofs are proposed to 3 storey properties to reduce height somewhat. It is assumed that developers are aware of the geology of the site and being within the catchment area for the Milneburn.
81. The Friends of Flass Vale consider that the houses are too close to Flass Vale at the western fringe with the potential to harm wildlife and would create too great an impact due to the 3 storey nature. Gardens encroach into embankments on the south west side which could alter the water table of trees, harm roots and present danger to the health of trees which will also lead to pressure for removal. It is stated that a mains sewer and culverted stream pass through the site and it is already overloaded at present. Care should be taken to provide adequate capacity for extra buildings so as to not cause more damage within Flass Vale and the watercourses. The proposed planting and fencing schemes are considered to be good though there is opportunity to enhance the entrance to Flass Vale on the Kingslodge Hotel side. The Friends of Flass Vale state that they are happy to enter into discussions regarding future maintenance of the woodland.
82. The MP has commented on the application and considers that the development seems high density and that they would feel more comfortable with the development if greater open space remained. A reduction in height to western edge of site would be beneficial, appropriate materials are essential. It is considered that a covenant should be added to the site so that the dwellings cannot be converted into HMOs. Working hours on site should be controlled and the removal of waste should be carefully planned to avoid pollution. Finally efforts should be made to persuade the developer to provide the full affordable requirement.

## **APPLICANTS STATEMENT:**

83. The applicant has submitted a design and access statement, summary statement, heritage statement, statement of community involvement and affordable housing statement and wider benefits statement.
84. In terms of the principle of the development, it is acknowledged that a part of the site is located beyond the settlement boundary within the designated Green Belt. However, reference is made to elements of the NPPF which lend support to the redevelopment of previously developed sites in the Green Belt.
85. The applicant considers that the layout and design of the development has sought to take into account the setting of the site adjacent to Flass Vale, the Green Belt, the Conservation Area and other heritage assets. The replacement of the existing utilitarian bus depot buildings with a high quality residential development is considered to enhance the character and appearance of the Conservation Area.
86. Much supporting documentation focuses upon the provision of affordable homes within the development. Initially the application was submitted with no affordable homes proposed. The basis for this relates to the history of the site and emergence of the development proposal from Gentoo. The City of Durham Local Plan Policy H12 does not require affordable homes to be provided until the threshold of 25 no. dwellings. In

addition a Site Development Guidance Note produced by the Council with regards to the site stated that affordable housing requirements would be in line with the 25 no. dwelling threshold detailed within the Local Plan.

87. It was on the basis of this information that the development was initially devised and the negotiation between Arriva as land owner and Gentoo as developer was based. Since the request for a 20% affordable housing provision has been received Gentoo have had to renegotiate with Arriva and reduce the development profit margin.
88. It is considered that the presently proposed scheme with 3 no. affordable units equating to 16% affordable housing is the best which can be achieved otherwise it is considered that the development proposal could not be realised and the land owner Arriva would look elsewhere for a development partner which would more than likely be a high density student development. The applicant emphasises that a student development which would be the likely alternative to this proposal would be unpopular in the community.
89. Emphasis is also placed on the wider benefits of the move of the bus depot to Belmont with reference made to the noise, disturbance and emissions caused by the bus depot. The development would provide an economic boost to the construction industry and local economy.
90. Details of responses to a public exhibition are supplied with the application and these demonstrate that the majority of respondents were in favour of the proposed redevelopment.

*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=4/12/00595/FPA>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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91. 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 area, impacts upon the openness of the Green Belt, impacts on residential amenity, impacts on highway safety, affordable housing and ecology.

### The Principle of the Development

92. The vast majority of the application site lies on undesignated land within the Durham City settlement boundary. The site comprises of previously developed land. The application site is located close to Durham City Centre, its array of services, the train station and bus station.
93. The development of this parcel of land is considered to constitute a suitable reuse of previously developed land within a sustainable location and as a result the development of the vast majority of the site is wholly in accordance with Policy H2 of the Local Plan, Policies 2 and 4 of the RSS and the aims of sustainable development running through the NPPF.

94. Part of the application site lies beyond the settlement boundary of Durham City and within the designated Green Belt. Policy E1 of the Local Plan advises that development within the Green Belt is inappropriate unless it is for one of the following purposes; agriculture/forestry; essential facilities for sport and recreation and other uses which retain the openness of the Green Belt; redevelopment at designated major developed sites within the Green Belt; replacement dwellings; residential extensions or conversions.
95. The proposed development does not fall within one of the above categories of development and therefore must be considered a departure from the policy and also policies E7 (development outside settlement limits) and H5 (housing in the countryside) which also seek to protect the countryside from residential developments.
96. However, applications must be considered against the provisions of the NPPF and where there is conflict with the current Local Plan, the NPPF essentially takes precedence. Part 9 of the NPPF relates to the Green Belt and states that the redevelopment of previously developed sites whether redundant or in continuing use can be considered appropriate development where they would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. The section of land which is within the Green Belt would contain the dwellings on plots 13-16 and associated garaging and garden spaces. It is not considered that this development would have an impact so above and beyond the rear most sections of the existing bus depot building that it would harm the openness of the Green Belt or indeed conflict with the purposes of including land within it.
97. Furthermore Part 6 of the NPPF relating to housing advises against isolated residential development. Although a section of the application site is beyond the settlement boundary of Durham City it remains immediately adjoined to the built up area and cannot be considered to be isolated.
98. As a result, the principle of the redevelopment of the site for the purposes of residential development is considered acceptable.

#### Impact Upon the Character and Appearance of the Area

99. The application site lies within the Durham City Centre Conservation Area. Policies E6 and E22 relate to the Conservation Area and seek to ensure a high quality design in proposals that are appropriate to Durham City and preserves or enhances its character, appearance and setting. Policy Q8 of the Local Plan advises on the layout and design of residential development and Policy H13 seeks to ensure that new developments in residential areas are appropriate to the character of the area. Policy 8 of the RSS seeks to protect and enhance the environment and requires new development to be of high quality and maintain local distinctiveness. Part 7 of the NPPF advises on the design of new development.
100. The existing bus depot is a utilitarian warehouse building of very little merit. Due to the lack of contribution the building makes to the Conservation Area the previously submitted application for conservation area consent to demolish the building has been approved (subject to a condition preventing demolition until an acceptable redevelopment scheme has gained planning permission).
101. Officers consider that the redevelopment of the site with a high quality residential development, more in keeping with the local area, would enhance the character and appearance of this particular part of the Conservation Area. The proposed layout and house types have been revised with Officer direction during the course of the

application. The proposed housetypes are now considered to better reflect the Durham vernacular with feature timber bays, steeply pitched roofs and chimneys. Design and Conservation have commented on the revised plans and considered the designs far more appropriate than those originally submitted.

102. The housetypes proposed vary between 3 and 4 storeys with the 4 storey properties being on the site frontage. Although these properties are relatively high and higher than the bus depot building, the height of the properties at the end of Waddington Street coupled with the slight raise in land levels into the application site, is considered to mitigate impact.
103. The layout for the development incorporates a largely linear approach, essentially dictated by the shape of the site and steep embankments adjacent. However, this approach respects the local area which predominantly comprises of terraced properties arranged in straight lines.
104. Subject to the appropriate use of final materials and landscaping which can be conditioned the development is considered to represent a quality scheme suitably sympathetic to the local area which would enhance and preserve the character and appearance of this part of the Conservation Area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Given the design character within the conservation area it is considered necessary to remove some elements of permitted development to avoid incongruous additions harming the character of the area.
105. Flass Vale which lies adjacent to the site is a designated Area of High Landscape Value. Policy E10 relates to such areas and seeks to ensure that developments which may affect such areas respect their setting and harmful development will be resisted.
106. The Friends of Flass Vale, a community group which seeks to protect and enhance the area, the City of Durham Trust and the MP have all raised some concern on the proximity and height of the dwellings closest to the Flass Vale. Similar points on the height and proximity of some dwellings have been raised by the Councils Landscape team.
107. However, it is considered that the proposed layout and housetypes would maintain an acceptable visual impact upon the setting of Flass Vale. It is acknowledged that the proposed properties are higher than the existing bus depot. However, at ground level the rear of the site closest to Flass Vale will be largely screened from Ainsley Street/Waddington Street by the front most properties. A benefit of the layout utilising straight lines is that once within the development views are opened up more than at present, due to the width of the depot building, towards Flass Vale beyond. When within Flass Vale itself walking the public footpaths the tree cover is so dense it is not considered that the proposed dwellings at the proximity and height sought would appear prominent or harmful when viewed from the north and west.
108. A key view of the site can be seen when entering/leaving Durham on the train travelling over the viaduct. Although the increased height of the dwellings will essentially screen views of some trees within Flass Vale a little more so than at present officers consider that this is compensated for by the generally improved aesthetic of the residential properties rather than the bus depot.
109. Policy E14 of the Local Plan relates to the protection of trees whilst Policy Q8 similarly looks to retain trees where possible to add maturity and quality to developments. Some trees within the application site are covered by the Flass Vale TPO 1973.

110. The Councils Senior Tree Officer raises no objections in principle, however, a series of requests are made to seek more clarity of the precise works to some groupings of trees.
111. The Councils Senior Landscape Architect raises some general concerns on the proximity of properties to trees and the impact of leaf fall and potential requests for future felling. Requests are also made that further efforts are made to reduce the number of trees sought for felling; concerns are also raised on the impact of a retaining wall proposed in rear garden areas upon trees and the impact of construction works upon some trees.
112. The Friends of Flass Vale have expressed concerns over the impact of the development upon trees particularly those on the embankment to the south western side of the site.
113. The submitted tree report states that it is proposed to remove 10 no. individual trees together with further removals required within groupings of trees. The applicant has responded to the specific concern of the Senior Landscape Officer on the impact of a retaining wall to rear of properties and has produced a redesign to step rear gardens to reduce impacts upon roots.
114. Although several trees will have to be lost to facilitate the development officers do not consider that the scale of this tree loss is so great as to be significantly harmful the character or appearance of the area. Conditions can be attached on any approval to agree precisely the tree works sought, protection measures for those to be retained and a compensatory landscape plan. The site is surrounded by densely wooded embankments and officers consider that the loss of some trees to facilitate the development will, in such a wooded setting, not be significantly harmful to the character of the local area.

#### Impacts upon Residential Amenity

115. Proposed residential developments must ensure the residential amenity of both existing neighbouring occupiers and the proposed occupiers of the new development are adequately preserved in accordance with the most relevant Local Plan Policies H13 and Q8.
116. The majority of relationships between the properties on the proposed layout accord with the separation distance guidelines of Policy Q8 to ensure adequate privacy and amenity. Significant distances exist between the frontage properties and those existing at the end of Waddington Street, whilst the majority of front and rear elevations within the remainder of the development face wooded embankments or the curtilage of the Kingslodge Hotel also screened by landscaping.
117. Some specific relationships within the site are slightly more intimate for example between plots 3 and 5 where separation distance between windows are down to 16.5m rather than 21m (as specified in the local plan) and between plots 10 and 11 where the front building line of plot 11 extends significantly beyond that of plot 10 at close proximity. However, some compensatory design solutions are proposed with the gable end of plot 11 to contain some recessed bricked up windows to retain greater privacy. Ultimately as these are relationships between proposed properties, prospective occupiers will be able to determine for themselves whether those specific relationships are satisfactory. No relationships within the development site itself are considered to be inadequate to point of warranting strong objection from officers. The view could also be taken that in the nearby historic streets; reduced separation distances on Terraces are accepted being part of the intrinsic character, allowing some flexibility on this new build scheme.

118. Beyond the application site neighbouring properties are either located a significant distance from the proposed development or well screened. Flass House is the closest residential property to the development but due to the orientation of the properties, location of windows, presence of screening trees and changes in levels the relationships between Flass House and the proposed properties are considered acceptable.
119. Officers therefore consider that impacts of the development upon the residential amenity of existing and proposed residents are acceptable.

#### Affordable Housing

120. A further key issue with regards to the application is the provision of affordable housing, a matter which has been discussed and negotiated upon significantly during the course of the application. Matters with regards to affordable housing are raised by the City of Durham Trust and the MP in their responses to the application.
121. The application was initially submitted without any affordable housing proposed. Essentially the basis for this relates to the lengthy history of the formation of the development proposal. The City of Durham Local Plan Policy H12 does not require affordable homes to be provided until the threshold of 25 no. dwellings. A Site Development Guidance Note produced by the Council with regards to the site stated that affordable housing requirements would be in line with the 25 no. dwelling threshold detailed within the Local Plan.
122. Gentoo initiated negotiations with Arriva on the land deal inline with the above advice and Arriva furthered their relocation plans also on this basis.
123. However, the formal application has much more recently been received and the present stance with regards to affordable housing based upon the most up to date evidence base contained within the Strategic Housing Market Assessment (SHMA) is that 20% affordable housing provision is required in Durham City on sites proposing 15 dwellings or more because of the housing need.
124. Negotiation between Gentoo as applicant, Arriva as land owner seeking to relocate and planning officers thus occurred with regards to affordable housing. Officers have acknowledged that Gentoo and Arriva will have undertaken significant negotiation in the past on the basis that no affordable housing was being sought at the site. However, with the formal application being considered at the present time and in light of the SHMA evidence base, no significant weight can be attributed to these previous stances with regards to affordable housing. Officers therefore advised the applicant that the site must include affordable housing to comply with the most up to date evidence base.
125. The result is that the applicant considers that the provision of 3 affordable units onsite comprising of 3 no. mews properties representing a 16% affordable provision is the effectively the best offer they can make without the agreement with Arriva and thus the proposal collapsing.
126. As is now standard practice in affordable housing discussions officers have requested development appraisal submissions from the applicant and in addition a costs breakdown of the proposed move of Arriva to Belmont. The figures submitted with regards to costs and incomes are considered accurate with colleagues in Asset Management providing advice on this.
127. The site within the heart of Durham City carries a high land value and incomes from the development are likewise high for the predominantly large and high quality homes proposed.

128. The applicant considers that a further affordable unit would render the land deal with Arriva unacceptable and the residential proposal would therefore not come into fruition so the proposal is considered on a 16% affordable basis. .
129. There is clearly a risk that this development would fall through bearing in mind that Arriva would more than likely to receive highly competitive offers from other developers most notably student accommodation providers. This point has been raised by the applicant and the point of view that a residential development with 3 no. affordable homes being provided at the site is better than no residential development at all.
130. This is a reasonable point of view but equally there is absolutely no guarantee that should this development not gain planning permission that an alternative development potentially involving an alternative applicant could not produce a layout proposing 20% affordable housing and also remain acceptable with the landowner. The Local Planning Authority cannot be agreeing that reduced affordable housing is provided solely because of an indeterminate concern that an alternative development use for the site that does not propose any affordable housing at all could emerge in the future.
131. However, there do remain other wider benefits to the residential redevelopment of the site which this proposal could provide and these should be considered in the balancing of the arguments.
132. The development itself is considered to be of high quality and officers do consider that the character and appearance of this part of the Conservation Area would be enhanced by the demolition of the depot and replacement with this residential development.
133. The bus depot has been a “nuisance neighbour” for local residents for a number of years and it is understood that the proposed relocation of the bus depot was first initiated due to the complaints of local residents. Although widespread support for the formal application has not been received from local residents it is understood that the public consultation exercise was largely welcomed by most that attended and commented. Significant support for the relocation of the bus depot has previously been received from the Councils Head of Transport and Contract Services. Not only are the benefits to immediate residents mentioned within this response but also the wider benefits to the bus service as a whole. The location and nature of the existing bus depot site results in inherent inefficiencies at present. The movement to the Belmont site would improve the bus services operationally and logistically. The impact of the proposed move would, it is considered by the Councils Head of Transport and Contract Services, be significant and immediate.
134. In drawing to a conclusion on the provision of only 3 no. affordable homes (16%) as oppose to providing the full 20% through 4 no. units there is much to consider.
135. Looking at the sheer facts and figures of a development appraisal officers consider that the full 20% provision could be made and the development remain viable for the applicant. The applicant is adamant that the proposal would collapse if any further affordable housing were sought at the site. Credence can be given to the view that it is beneficial for affordable housing provision across the County for residential developments to come forward with reduced affordable provision if the alternative is that the development would simply not occur.
136. In this instance this cannot be proven to be the case, however, likely as the applicant states that it is. However, there are wider arguments in support of the development namely the enhancement of the Conservation Area and the benefits of the relocation of



bus depot both to immediate residents but also to efficiency of bus service provision County wide.

137. On balance officers conclude that support can be offered to the development taking into consideration all of these factors cumulatively despite the development delivering 1 no. fewer affordable homes than current policy requires.

### Highways Issues

138. Policy T1 of the Local Plan seeks to ensure that all development is acceptable in terms of highway safety whilst Policy T10 seeks to limit parking provision in development to promote sustainable transport choices and reduce the land take of development. Part 4 of the NPPF also seeks to promote sustainable transport choices.
139. The layout for the proposed development has been revised during the course of the application. The Highway Authority raised a number of concerns with the originally submitted layout regarding matters of access/egress visibility, the pedestrian routes, material choices, lack of turning area for service/emergency vehicles at the western end of the site, excessive parking provision and location of bin collection points.
140. Following further discussion and submission of revised plans some of the concerns of the Highway Authority have been resolved namely that regarding visibility, lack of turning area for service/emergency vehicles and location of bin collection points. It must be noted that the Highway Authority do not remain wholly satisfied with the layout with excessive parking still considered likely due to the large turning facility towards the centre of the site and linked to this the proposed material choices.
141. Officers can add conditions to any approval to agree final hard surface material choices for the development, which are also a concern of landscape colleagues, to ease the concerns and this would likely help with the concerns over the potential of some areas being inappropriately used for additional parking. Ultimately officers do not consider that the potential for additional parking in certain areas of the site is so great or demonstrably harmful that it warrants a strong objection from the Local Planning Authority.
142. As a result officers consider that whilst acknowledging the Highway Authority's outstanding concerns impacts upon highway safety remain acceptable having regards to the content of Policies T1 and T10 of the Local Plan, Policy 7 of the RSS and Part 4 of the NPPF and that refusal of the application on highways grounds would not be reasonable.

### Ecology

143. With regards to matters of ecology the proximity of the site to the Flass Vale Site of Nature Conservation Importance and Local Nature Reserve is noted. Policy E16 of the Local Plan and Policy 33 of the RSS seek to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through the NPPF most notably at paras. 118 and 119. Policy E18 of the Local Plan relates specifically to Sites of Nature Conservation Importance and seeks their protection. The Friends of Flass Vale have raised concern at the potential for the development to harm wildlife.
144. The application has been accompanied by an extended phase 1 habitat survey and bat risk assessment. No evidence of badgers or reptiles on or in the immediate vicinity of the site were found. Some birds nests were found within the buildings though no evidence of breeding birds. No evidence of roosting bats were found though there is

low potential to support roosting bats. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. It is not considered that a license from Natural England would be required to implement the development and as a result it is not considered that the Local Planning Authority must consider a detailed assessment against the 3 no. "derogation tests" of the Habitats Directive.

145. Ecology have supplied comments with regards to the application and no objections have been raised with regards to the impact of the development at the site, impacts upon Flass Vale or the content of the submitted ecology report. It is recommended that the mitigation recommendations are conditioned on any approval.

#### Other Issues

146. The S106 agreement submitted with the application as well as proposing the 3 no. affordable units also proposes a £26,000 contribution towards public art as required by Policy Q15 of the Local Plan and £19,000 towards play/recreational space as required by Policy R2 of the Local Plan.
147. Environmental Health have submitted comments on the application with regards to a number of issues. With regards to contaminated land to which Policy U11 of the application was accompanied by a geotechnical appraisal. Environmental Health consider that an intrusive investigation would be required and a condition could be attached to any approval to require these work to be undertaken. Environmental Health advise on matters of noise and dust mitigation, material disposal and appropriate working hours. A condition with regards to appropriate working hours could be attached to any approval. Finally, Environmental Health consider that as the site is situated close to a declared air quality management area the application should be accompanied by an assessment of the potential impact of the development upon traffic levels together with measures to mitigate impact on air quality. However, in this particular instance it must be taken into consideration that the existing use of the site is a bus depot with many comings and goings of buses throughout the day. The traffic levels and likely impact on air quality of the proposed residential development will, if anything, be more than likely less significant than the present use of the site. Therefore further investigation into this matter is not considered to be necessary.
148. Similarly a condition can also be attached to ensure that a 10% carbon emission reduction occurs through the development as required by Policy 38 of the RSS and requested by the Councils Senior Low Carbon Officer.
149. The application was accompanied by a desk based archaeological assessment, officers noting the proximity of the site to both the Nevilles Cross Battlefield and also Maidens Bower ancient monument. The submitted desk based assessment states that the site lies outside of the medieval development of Durham, that Maidens Bower is at too greater distance away to likely be of any archaeological concern and likewise no concerns are raised with regards to Nevilles Cross Battlefield. The assessment concludes that no further scheme of archaeological works is required and the Council's Senior Archaeologist has in their comments agreed.
150. Other heritage assets are located within the vicinity of the application site including the listed Durham Miners Hall located approximately 85m to the south and the listed viaduct approximately 160m to the east. Given the separation it is not considered that the development would have any impact upon the special character or setting of these buildings. Likewise the World Heritage Site itself is considered to remain unaffected by the development with no harm caused by the development through either views to or from the peninsula.

151. Some public comment in relation to the development relates to the matters concerning drainage at the site and the fact that a mains sewer and culverted stream pass through the site and it is believed these are already overloaded. Northumbrian Water have been consulted on the application and no objections have been raised although the sewer will need to be diverted and a condition on any approval can cover this. Similarly the applicant has submitted a drainage and utilities statement with the application stating that the intention is to divert the piped watercourse under the site. Officers have discussed the practicalities of this with the Environment Agency and the Environment Agency have stated that the diversion of an already culverted watercourse is ordinarily a straightforward operation. As a result it is considered that a condition requiring agreement to be reached over the appropriate means of diverting the piped watercourse with the LPA and the Environment Agency can resolve this matter. No objections are therefore raised with regards to matters of drainage or flooding having regards to Policies U8A and U9 of the Local Plan.
152. The MP in her comments on the application stated that a covenant should be added to the site so that the proposed properties cannot be converted into HMO properties. Covenants cannot be applied to planning permissions, although potentially the permitted development rights to remove the ability for the properties to change from a C3 to a C4 use class without first requiring planning permission could be done via condition. However, the removal of permitted development rights when removed via condition should only be undertaken when they meet “the tests” for applying conditions as outlined in the relevant circular which includes the test of being necessary. The consideration of the impact of HMOs within Durham City is being considered further at present and indeed there was relatively recently a public consultation event undertaken on whether an Article 4 direction removing the permitted development rights for changes of use to HMOs should be applied in certain areas of the City. As consideration of these matters at a strategic level is still being undertaken officers consider that it is not clear that there is a substantiated policy need for preventing HMO creation under permitted development. As a result, officers do not consider that the application of a condition removing permitted development rights preventing a change of use from C3 use to C4 should occur at the site. The applicant, however, has stated within their supporting statement of community involvement that the development is aimed at families and that they are separately investigating measures to control the occupation of the dwellings.
153. The Friends of Flass Vale within their comments on the application have stated that they are happy to enter into discussions with the applicant to help with ongoing management of the woodland at Flass Vale. The applicant has in their documentation also stated that they are happy to continue to discuss management issues with the Friends of Flass Vale.

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## **CONCLUSION**

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154. The application seeks the redevelopment of the Arriva bus depot with a high quality residential development. The proposed development is considered to be an appropriate use of the land in principle even those sections of the land that lay within the Green Belt and out of the Durham City settlement boundary.
155. The proposal would create a traditional residential development in keeping with the Durham vernacular and enhance the character and appearance of the Conservation Area.

156. The proposal seeks the provision of 3 affordable units on site which is one unit less than necessary to meet the 20% provision which is sought within Durham City. Whilst clearly finely balanced on this particular occasion officers do consider that there are exceptional circumstances relating to the wider benefits of the relocation of the bus depot for residential amenity reasons and redevelopment of the site with a high quality residential development that allow for the proposal to gain officer support.
157. No objections warranting refusal of the application are raised with regards to all other material planning considerations including but not restricted to highway safety and residential amenity.
158. Approval of the application is therefore recommended.

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## **RECOMMENDATION**

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That the application be **APPROVED** subject to the following conditions and subject to the entering into of a Section 106 agreement to secure:

- i. The provision of 3 no. affordable homes onsite
- ii. A contribution of £19, 000 for recreational and play space
- iii. A contribution of £26, 000 for public art

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.

Plan nos.

GEN/34A/002(P5)

GEN/34A/003(P4)

GEN/34A/004(P4)

GEN/34A/005(P4)

GEN/34A/006(P4)

GEN/34A/007(P4)

GEN/34A/008(P4)

GEN/34A/009(P5)

GEN/34A/010(P5)

GEN/34A/011(P5)

GEN/34A/012(P5)

GEN/34A/013(P2)

1434.5.1 Rev A received 25<sup>th</sup> October 2012

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E1, E3, E6, E7, E10, E14, E15, E16, E18, E22, E24, E25, H2, H5, H12, H13, T1, T10, T21, R2, R11, Q1, Q2, Q3, Q5, Q8, Q15, U5, U8A, U9, U11, U14 of the City of Durham Local Plan 2004.

3. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials and details of the colour treatment of timber bay windows have been

submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policies E6, E22 and Q8 of the City of Durham Local Plan 2004.

4. Notwithstanding the details shown on the approved plans precise details of all windows, rooflights, heads and cills shall be submitted to and approved in writing by the Local planning authority, prior to the commencement of the development. The details submitted shall include sample windows. The scheme shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policies E6, E22 and Q8 of the City of Durham Local Plan 2004.

5. Notwithstanding the information shown on the submitted plans, full details of proposed privacy screens to be situated between the balconies of properties shall be submitted to and approved in writing by the Local planning authority before the development commences. The scheme shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of residential amenity and to comply with Policy Q8 of the City of Durham Local Plan 2004.

6. Notwithstanding the information shown on the submitted plans the buildings hereby approved shall be constructed with dry pointed verges to the walls and shall not include the use of bargeboards/fasciaboards.

Reason: In the interests of the appearance of the area and to comply with Policies E6, E22 and Q8 of the City of Durham Local Plan 2004.

7. Prior to the commencement of the development details of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate.

Reason: In the interests of the appearance of the area and to comply with Policies E6, E22 and Q8 of the City of Durham Local Plan 2004.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A, D and E of Part 1 of Schedule 2 of the said Order shall be carried out at plots 1-4 (inclusive).

Reason: In the interests of the appearance of the area and to comply with Policies E6, E22 and Q8 of the City of Durham Local Plan 2004.

9. The hereby approved development shall be carried out in accordance with a scheme of landscaping to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development on site. The scheme may provide for the planting of trees and / or shrubs (including species, sizes, numbers and densities), the provision of fences or walls, the movement of earth, the formation of banks or slopes, the seeding of land with grass, or other works for improving the appearance of the development. The works agreed to shall be carried out within the first planting season following completion of development of the site and shall

thereafter be maintained for a period of 5 yrs following planting. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area and to comply with Policies E6, E22, Q5 and Q8 of the City of Durham Local Plan 2004.

10. Prior to the commencement of development precise details including a plan shall be submitted to the Local Planning Authority clearly identifying which trees and hedges that are to be removed and which are to be retained and protected during the course of construction works. 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 of 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.5837:2005. Said protection shall remain in situ until the development has been completed.

Reason: In the interests of the preservation of trees and visual amenity having regards to Policies E14 and Q8 of the City of Durham Local Plan 2004.

11. Notwithstanding the information shown on the submitted plans, full details of the materials to be used in the formation of all hardsurfaced areas shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The scheme shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of visual amenity and highway safety having regards to Policies E6, E22, Q8, T1 and T10 of the City of Durham Local Plan 2004.

12. No development approved by this permission shall be commenced until:

- a) the application site has been subjected to a detailed site investigation report for the investigation and recording of contamination and has been submitted to and approved by the LPA;
- b) should contamination be found, detailed proposals for the removal, containment or otherwise rendering harmless such contamination (the 'contamination proposals') have been submitted to and approved by the LPA;
- c) for each part of the development, contamination proposals relevant to that part (or any part that would be affected by the development) shall be carried out either before or during such development;
- d) if during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the LPA; and
- e) if during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

Reason: To remove the potential harm of contamination in accordance with Policy U11 of the City of Durham Local Plan 2004.

13. Prior to the commencement of development a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon

sources provided on-site, to a minimum level of at least 10% of the total energy demand from the development, or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to the first occupation of the dwellings.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Policy U14 of the City of Durham Local Plan and Policy 38 of the Regional Spatial Strategy for the North East.

14. Notwithstanding the information submitted and prior to works commencing, a detailed scheme for the diversion of both the mains sewer and culverted watercourse which cross the site shall be submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Environment Agency and thereafter implemented in accordance with the approved scheme.

Reason: In the interests of adequate drainage and the prevention of flooding having regards to Policies U8A and U9 of the City of Durham Local Plan 2004.

15. No development works (including demolition) shall be undertaken outside the hours of 8am and 6pm Monday to Friday and 8am to 2pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to Policy H13 of the City of Durham Local Plan 2004.

16. No development shall take place unless in accordance with the mitigation detailed within Section 5 "Recommendations" of the protected species report undertaken by Eco North received 17<sup>th</sup> July 2012.

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

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## **REASONS FOR THE RECOMMENDATION**

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1. The development is considered to represent the efficient use of a previously developed plot of land, the majority of which lies within the settlement boundary of Durham City. Part of the application site is located within the Green Belt and as a result the development does represent a departure from Local Plan Policies E1, E7 and H5. However, the redevelopment of previously developed land within the Green Belt is considered to accord with the provisions of the NPPF and the principle of the development remains acceptable. It is considered that exceptional circumstances apply to the site and proposal that permit the slightly reduced affordable housing provision. No significant objections are raised with regards to other key issues of highway safety, impacts on visual amenity and residential amenity. The development is considered to accord with Policies E3, E6, E10, E14, E15, E16, E18, E22, E24, E25, H2, H12, H13, T1, T10, T21, R2, R11, Q1, Q2, Q3, Q5, Q8, Q15, U5, U8A, U9, U11, U14 of the City of Durham Local Plan 2004.

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. With regards to protected species the development is considered to accord with the requirements of the Habitats Directive and the Conservation of Habitats and Species Regulations 2010.

2. In particular, the reduced provision of affordable housing proposed is considered to remain acceptable as there are considered to be finely balanced exceptional circumstances to allow the development to proceed.
3. Three letters of representation have been received. All comments raised have been duly considered within the application the matters pertaining to points raised discussed within the report. It is not considered that any of the objections/concerns raised justify the refusal of the application having regards to all material planning considerations.

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## **BACKGROUND PAPERS**

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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

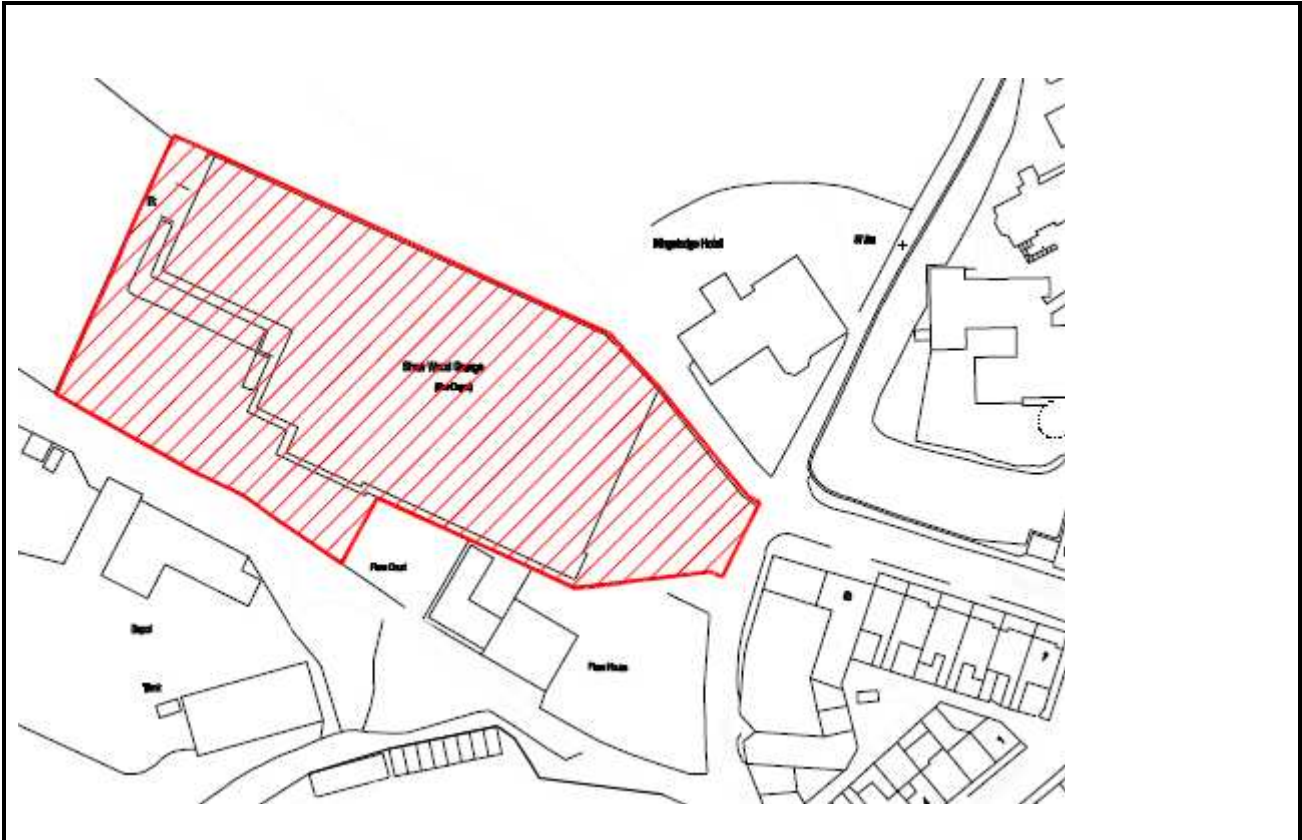
Responses of the Highway Authority, Northumbrian Water and Environment Agency


Planning Circular 11/95

Strategic Housing Market Assessment

County Durham Local Plan (Preferred Options)





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|---|--|--|
|  <p><b>Durham</b><br/>County Council</p> <p><b>Planning Services</b></p>   | <p>Demolition of existing buildings and erection of 19 no. dwellings</p> |  |
| <p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.<br/>Durham County Council Licence No. 100022202 2005</p> | <p><b>Date 13<sup>th</sup> November 2012</b></p>                         |  |