

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/14/01023/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Partial demolition of former cinema and erection of 5 no. dwellings with associated works (Resubmitted)
<b>NAME OF APPLICANT:</b>	Mr Simon Williams Former Cinema The Avenue
<b>ADDRESS:</b>	Coxhoe Durham DH6 4AA
<b>ELECTORAL DIVISION:</b>	Coxhoe
<b>CASE OFFICER:</b>	Tim Burnham, Planning Officer, 03000 263963 tim.burnham@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### SITE

1. The application site relates to the former Picture House and specifically to the rearmost part of the building, a large structure of brick and profiled sheet roofing which lies immediately behind the main area of shops and services within Coxhoe, although it does also lie within the defined Local Centre for Coxhoe. The site is surrounded by a mix of uses including the Working Men's Club immediately to the south, but is largely surrounded by residential properties.

### PROPOSAL

2. Planning permission is sought for the demolition of the Picture House and the erection of a terrace of 5 no. two and half storey dwellings oriented north-south and with access provided from The Avenue. The dwellings would benefit from internal garages and gardens to the north side of the terrace.

3. The application has been referred to planning committee by Councillors Williams and Plews. Cllr Williams is conscious of a safety issue in that the access proposed is close to the traffic lights and junction and also notes that previous applications at the site have been approved by the council.

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## PLANNING HISTORY

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4. Planning approval was granted in 1996 for a change of use of the former cinema to provide a recording studio, publishing office and first floor apartment. It appears this approval was not implemented. Planning approval was granted for a scheme very similar to

the one now under consideration in 2007. The scheme was recommended for refusal by Officers but approved by the committee at the time.

5. An application was made to extend the time limit for the implementation of the 2007 approval in 2010 which was approved. This approval was amended slightly in 2010 to retain part of the cinema building and to provide an additional parking space. Planning approval was granted in 2010 for a single storey extension in association with the conversion of the first floor of part of the building to form a single dwelling and the change of use of the ground floor to mixed use class A1/A2. Officers understand that this consent has been implemented.

6. Both the original consent and the extension of time for the 5 no. dwellings have now lapsed, hence the reason for this planning application being submitted.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. 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.

8. 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'

The following elements are considered relevant to this proposal;

9. NPPF Part 1 – Building a strong, competitive economy. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

10. NPPF Part 4 – Promoting sustainable transport. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

11. NPPF Part 6 - Delivering a wide choice of high quality homes. To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.

12. 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.

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 radical reductions in

greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

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 and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

#### **LOCAL PLAN POLICY:**

15. 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. As far as possible, Unacceptable harm to nature conservation interests will be avoided. Mitigation measures to minimise unacceptable adverse impacts upon nature conservation interests should be identified. The nature conservation value of the district will be enhanced through the creation and management of new wildlife habitats and nature conservation features in new development schemes.

16. Policy H3 (New Housing Development within the Villages) allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units.

17. Policy H10 (Backland and Tandem Development) states that the development of such sites typically at the rear of existing houses in the form of back gardens will not be allowed unless a safe and satisfactory access can be provided, the amenities of new and existing occupiers are not adversely affected and the proposals are in scale and character.

18. 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.

19. Policy T1 (Traffic Generation - 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.

20. 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.

21. Policy S5f (Local Centres - Coxhoe) relates in the main to the development of additional shops and services, however, infill housing or changes of use to housing will be acceptable provided the development does not erode the supply of land required for shopping or recreation facilities.

22. 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 area of surface, street and rooftop parking are not considered appropriate.

23. 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.

24. 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.

25. 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.

26. Policy U13 (Development on unstable land) This policy states that development on unstable land will only be permitted where there is no risk to users of the development or where appropriate remediation measures can be undertaken.

#### **EMERGING PLANNING POLICY**

27. The emerging County Durham Plan was Submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:

28. Policy 15 is particularly relevant, relating to development on unallocated sites. It states;

29. All development on sites that are not allocated in the County Durham Plan or in a Neighbourhood Plan, will be permitted provided the development:

- a. Is appropriate in scale, design and location to the character and function of the settlement;
- b. Does not result in the loss of a settlement's last community building or facility (of the type which is the subject of the proposal) unless it can be demonstrated that it is no longer viable or has not been purchased by the community following the procedures set out in the Community Right to Bid;

c. Is compatible with and does not prejudice any intended use of adjacent sites and land uses; and would not involve development in the countryside that does not meet the criteria defined in Policy 35 (Development in the Countryside).

30. Policy 48 is also relevant, relating to sustainable travel. It states;

31. The transport implications of all development must be addressed as part of any planning application. All development (lxixiii) shall deliver sustainable travel by:

a. Delivering, accommodating and facilitating investment in sustainable modes of transport such as walking, cycling, bus and rail transport, alternative fuel vehicles and car sharing;

b. Providing appropriate, well designed, permeable and direct routes for all modes of transport, so that new developments clearly link to existing routes for the convenience of all users; and

c. Ensuring that any vehicular traffic generated by new development following the implementation of sustainable transport measures can be safely accommodated on the local and strategic highway network without causing additional congestion, or can be made safe by appropriate transport improvements.

Proposals for new development should comply with the Council's parking standards found in the 'Parking and Accessibility Guidelines'.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **CONSULTEE RESPONSES:**

32. Councillor Williams has noted that he is conscious of a safety issue in that the access proposed is close to the traffic lights and the junction. Cllr Williams has enquired as to whether the direction of flow of traffic could be changed or controlled and has also enquired as to whether the number of properties proposed could be reduced. Along with Cllr Williams Cllr Plews has also requested that this application be determined by the committee.

33. Highways Development Management has objected to the application on the basis that the proposed 5 dwellings will increase risk to highway safety in the area.

### **INTERNAL CONSULTEE RESPONSES:**

34. Archaeology: No objection.

35. Environmental Health: No objection subject to conditions relating to noise and odour assessment.

36. Ecology: No objection.

37. Drainage: No objection, subject to submission of surface water management plan.

38. Northumbrian Water: No objection.

The Coal Authority: Object to the planning application as the site lies within the defined high risk area.

#### **PUBLIC RESPONSES:**

39. The application has been advertised through neighbour notification and a site notice. One letter of concern has been received in relation to the demolition of the building in terms of working hours, noise, dirt and disturbance.

#### **APPLICANTS STATEMENT:**

40. The applicant is seeking planning approval for the redevelopment of the former cinema building located in the centre of Coxhoe village. The development involves the partial demolition of the existing building (rear auditorium) to allow the construction of 5 number, 3 bedroom, three storey town house style dwellings with associated car parking and landscaping to the rear of the site while retaining the former entrance foyer and projection rooms to the front of the site (facing the highway) allowing for a mixed use, residential and commercial building to be formed. These properties will be open for sale to the local housing market, providing needed family homes close the village centre.

41. This application represents the renewal of a previous planning approval for exactly the same development, reference number 07/00358 which has lapsed. Due to the recent recession, and the severe economic conditions experienced by whole country, the applicant was unable to commence the development within the prescribed planning period. This planning approval was extended through application reference 10/00221, which has also lapsed, although the applicant believed that a substantial start had been made through the development work to the retained foyer building; however the LPA deemed this not to be the case.

42. This is a very challenging site for the applicant to develop. The dilapidated condition of the existing building along with the environmental conditions this type of development work entails, means it is a very expensive and time consuming process. However the challenge of delivering the five properties to this site remains and the applicant is committed to seeing the project through. He believes that these five new properties, although a small and modest development amount, will be a welcome addition, aiding the social, economic and development needs of the village.

*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://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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43. 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 residential development at the site, the impacts upon visual and residential amenity and highway safety.

#### **The Principle of the development of the site**

44. In terms of the principle of developing the site for residential purposes, the site is previously developed land and in accordance with the NPPF and Policy H3 of the Local

Plan, its redevelopment for residential purposes would accord with the objectives of these policies.

45. The site lies within the local centre and the picture house, which, is in a poor state of repair, has been vacant for many years. It does not provide a community or retail/service facility and its loss will not lead to a lack of supply of land for shopping within the local centre thereby protecting its vitality and viability in accordance with Policy S5 of the Local Plan.

### **Impact upon visual and residential amenity**

46. The proposed dwellings would provide accommodation over three floors in the form of a terrace of townhouses with half dormer windows to both front and rear elevations. The properties would have a traditional appearance and are considered to be in scale and character with their surroundings. The removal of the Picture House itself would, it is considered, be beneficial in terms of the amenity of a number of residents from where it appears as an entirely dominant and oppressive building in a deteriorating state. The new dwellings would provide an adequate level of separation to surrounding properties, and while the north facing elevation would overlook gardens serving Front Street East, these gardens are not within the curtilage of the dwellings and the private amenity space located immediately at the rear of the properties will not be adversely affected. Therefore, the amenities of prospective and existing occupiers will be protected in terms of privacy and outlook. The proposals would, in these respects, accord with the requirements of Policies H3 and Q8 of the Local Plan.

### **Highways Issues**

47. The acceptability of the proposals therefore rests upon whether or not the development would be to the detriment of highway safety. The site is considered backland for planning purposes, being located at the rear of existing properties and having a typical rear lane access. Policy H10, together with Policy T1 seeks to ensure that developments are served by a safe and satisfactory means of access and without harm to the amenity of existing occupiers.

48. The site can be accessed by two separate accesses onto The Avenue, however, both have poor visibility splays and the westernmost of the two being in close proximity of the traffic lights in the centre of the village.

49. The shortest route to the site would be from the westernmost access and traffic leaving the site and turning toward the centre of the village would have to turn across oncoming traffic at a junction with poor visibility. This would lead to conditions prejudicial to highway safety for pedestrians using the associated footways, road users and traffic associated with the proposed dwellings.

50. In addition, the site itself is accessed by a series of right angle bends within the rear lanes which are narrow and the level of traffic generated by the development in addition to that which already uses it would be a further condition prejudicial to highway safety for both vehicles and pedestrians.

51. The feasibility of introducing a one way system at the site has been investigated by Officers. However it has been concluded that a one way system would not offer any benefit to the area and would lend itself to enforcement difficulties.

52. It is recognised that the proposal to remove the redundant cinema building for a more productive use is of merit, however, highway safety is a primary material consideration to which significant regard must be had in determining applications. The NPPF states that

development should only be prevented on transport grounds where the residual cumulative impacts of development are severe.

53. While finding that in all other respects the proposed development is considered acceptable, this cannot be outweighed by the conclusion that the proposals are considered to be detrimental to highway safety in terms of traffic associated with the development, other road users and the safety of pedestrians, and accordingly Officers consider it appropriate to recommend the scheme for refusal.

### **Other issues**

54. Given the aged and open nature of the property a Bat report was undertaken in reference to previous applications at the site. The development of the site has been identified as having a low risk to bats and the Senior Ecology Officer has advised that he offers no objection. Overall, the granting of Planning Permission would not constitute a breach of The Conservation of Habitats and Species Regulations 2010 as there is unlikely to be any interference with a European Protected Species.

55. The Coal Authority has objected to the proposed development and has suggested that a coal mining risk assessment is needed to ensure that the site is, or can be made safe and stable for development. While ideally these assessments should be submitted upfront it is Council Policy not to invalidate an application if such a risk assessment is lacking. This information can be conditioned and developers are required to submit a coal mining risk assessment and carry out any necessary remedial measures as part of any planning approval.

56. There have been two previous planning approvals for residential development on this site. However the first was approved contrary to officer recommendation on the basis of the benefits of development outweighing the highway safety issues at the time. That permission was subsequently renewed under delegated powers at a time when central government was encouraging renewal of extant permissions unless policy or other material considerations had changed since the earlier decision.

57. The current application represents a completely fresh submission where all relevant planning matters need to be considered. In this context, the serious highway safety issue is considered to override all other considerations and previous decisions should not be seen as establishing a precedent for approval.

58. The applicant's agent has suggested that the development had been commenced through the work carried out to the retained foyer building; however the matter of whether or not the development has commenced has been investigated by Officers who considered this not to be the case.

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## **CONCLUSION**

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59. Officers consider the application acceptable in terms of the principle of the development and the impact upon visual and residential amenity. However, the development is considered unacceptable in Highways terms as it would generate additional traffic in and around this location which would be harmful to highway safety contrary to Policy T1 of the City of Durham Local Plan and Part 4 of the National Planning Policy Framework.



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## **RECOMMENDATION**

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That the application be **REFUSED** for the following reason;

The proposals would result in increased levels of traffic generation in and around the site using unsatisfactory junctions with sub-standard visibility resulting in conditions prejudicial to vehicle and pedestrian safety contrary to Policy T1 of the City of Durham Local Plan and Part 4 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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62. In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The application has been reported to committee within the 8 week target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
City of Durham Local Plan 2004  
County Durham emerging local plan  
Response from Councillor Williams  
Consultee responses  
Internal Consultee responses



**Planning Services**

Partial demolition of former cinema and erection of 5 no. dwellings with associated works (Resubmitted)

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**Date 10<sup>th</sup> June 2014**