



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/14/01821/FPA
FULL APPLICATION DESCRIPTION:	Demolition of Kepier House & erection of 35 apartments with associated external works
NAME OF APPLICANT:	Charles Church Ltd
ADDRESS:	Land at Kepier House, The Sands, Durham
ELECTORAL DIVISION:	Elvet & Gilesgate
CASE OFFICER:	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. This application site is located to the North East of the city centre; and is immediately adjacent to and overlooks the south bank of the River Wear. The site slopes toward the river from north to south and is separated from the river bank by the Providence Row and a substantial area of accessible green open space known as The Sands; which forms the South Bank. Within the site itself the only remaining structure is that of Kepier House, a non-designated heritage asset which is derelict in appearance and use. The site is also located within the Durham City Conservation Area.
2. The site is currently vacant and surrounded by security fencing. A previously approved residential development has been progressed on the Northern part of the site. The progress of these works includes excavations for a basement car park and extensive piling to suit that scheme, various spoil heaps from those excavations remain on site. The Southern elevated section of the site is more attractive and remains landscaped with a series of mature protected tree canopies. It is the intention to utilise these excavations and piling within the submitted proposal.
3. The surrounding area is predominantly residential in character; and these properties are on the whole fairly modern; mostly dating from the 1950's onwards. The area has been developed in a piecemeal manner as a series of smaller estates. Further west along

Providence Row the scale of buildings increases on the approach to Claypath and the city centre.

The Proposal

4. This application proposes the demolition of Kepier House and the erection of 35 residential apartments with associated infrastructure and landscaping. The proposed building would be split level mainly three storeys in height rising to four storeys as the site rises to the south; the existing building on the site would appear roughly the same height as the one being proposed which would be cut into the slope of the site. The apartments would be located in two blocks and would consist of a main apartment block which is three storeys in height which would step down through the site to reflect the natural change in the site topography. There is a small section at four storeys where the change in level occurs.
5. There would be 47 car parking spaces on site, 11 of these would be at ground level and accessed from Ferens Close whilst 36 spaces would be located in an undercroft car park accessed off Providence Row which would not be visible from public view.
6. The presence of mature trees on the site means that a large part of the site is undevelopable; although this has provided an opportunity to develop a scheme incorporating a considerable area of mature landscaping. The existing tree canopy and proposed additional landscaping would also provide context and soften the appearance of the proposed building which would be constructed from brick and render with grey anthracite windows.
7. This application is being referred to Committee as it relates to a major residential development.

PLANNING HISTORY

8. On 5th February 2004 two applications were submitted; one for Full Planning Consent (04/00165/FPA); one for Conservation Area Consent (04/00142/CAC). Both seeking consent for; “The erection of 16 no. residential apartments and 4 no. townhouses and change of use and conversion of existing student hostel to 2 no. dwellings”. These applications were approved on 2nd June 2004 and subsequently commenced, although this development later ceased on site due to viability issues.

PLANNING POLICY

NATIONAL POLICY

9. 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.

10. 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;

11. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
12. *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.
13. *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.
14. *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.
15. *Part 8 -* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *NPPF Part 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.

17. *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.
18. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/publications/planningandbuilding/nppf>

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

19. 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.
20. 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.
21. 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.
22. Policy E21 (Conservation and Enhancement of the Historic Environment) requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.

23. 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.
24. 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.
25. 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. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
26. 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.
27. 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.
28. 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.
29. 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.
30. 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.
31. 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

32. 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.
33. Policy U15 - Energy Conservation – Renewable Resources permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

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>

EMERGING POLICY:

34. 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:
35. *Policy 1 (Sustainable Development)* – States that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework.
36. *Policy 15 (Development on unallocated sites)* – States that development on unallocated sites will be permitted on the basis that they are appropriate in scale, design and location to the character and function of the settlement, they do not result in the settlements last community facility, would not prejudice the intended use of adjacent sites and land uses and that they are not in the countryside.
37. *Policy 18 (Local Amenity)* – In order to protect the amenity of people living and/or working in the vicinity of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity such as by way of noise, vibration, odour, dust, fumes, light pollution, overlooking, visual intrusion, visual dominance, loss of light or loss of privacy.

38. *Policy 44 (Historic Environment)* – Development will be required to conserve the fabric, character, setting and cultural significance of designated and non-designated heritage assets and to seek opportunities to enhance structures and areas of significance throughout County Durham. Developments that promote the educational, recreational, tourism or economic potential of heritage assets through appropriate development, sensitive management, enhancement and interpretation will be permitted.
39. *Policy 48 (Delivering Sustainable Transport)* – All development shall deliver sustainable travel by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; and ensuring that any vehicular traffic generated by new development can be safely accommodated.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

40. The Environment Agency have no objections to the proposals on the basis that the recommendations contained in the submitted Flood Risk Assessment are conditioned.
41. Northumbrian Water raise no objections to the proposals.

INTERNAL CONSULTEE RESPONSES:

42. Tree Officers have no objections to the proposals and welcome the replanting scheme. Conditions should be imposed to ensure protection of existing trees during development.
43. Pollution Control Officers raise no objections subject to contaminated land conditions.
44. Ecology Officers have been consulted and have no objections to the proposals on the basis that the mitigation measures indicated in the submitted ecology report are conditioned.
45. Archaeology Officers have no objections to the proposals on the basis that a programme of archaeological recording is conditioned.
46. Design and Conservation Officers have no objections to the demolition of Kepier House and its replacement with the proposed apartments.
47. Drainage Officers have assessed the submitted Flood Risk Assessment and have no objections to the proposals on the basis that the recommendations in the report are conditioned.
48. Landscape Officers comment that on the whole the landscaping scheme submitted is acceptable.

49. Highways Officers initially objected to the proposals on the basis that there was a shortfall of parking on site. However, amended plans have since been received which show a total of 47 parking spaces along with provision for cycle parking which has been considered acceptable.

PUBLIC RESPONSES:

50. The application has been advertised by way of a press notice, site notice and letters to individual residents. Seventeen letters have been received in response to the consultation exercise, sixteen of which are objections, although most of these letters of objection acknowledge the need to redevelop the derelict site. The main areas of concern are that the development would lead to traffic congestion and parking problems and that the access point from Ferens Close is unacceptable. Other concerns are that the building would have an adverse visual impact on the Conservation Area as it is out of scale and character and that it would lead to overshadowing and a loss of light to existing properties. There are also concerns that the proposals would lead to flooding and that there is a lack of cycle parking on the site. The letter of support from a nearby resident states their support for the redevelopment of what is a derelict site.

APPLICANTS STATEMENT:

51. This development offers the opportunity to create a new sustainable residential development within Durham City. The proposal for 35 apartments provides an excellent range and choice of dwellings to satisfy current and future residential requirements for Durham City and also provides a type and size of dwelling which is currently under provided within the locality.
52. We have engaged with the Council throughout the planning process and are satisfied that the scale and form of development, as well the proposed housing mix is appropriate within this locality. The proposals shall develop an urban brownfield infill site within the development limits of Durham, creating a new, attractive residential development for the city.
53. The site's location within an existing residential area of Durham city and close to the city centre ensures that the site is highly sustainable in relation to local amenity with a wide variety of services, facilities, open space, recreational facilities, and local schools within close proximity to the development. Furthermore, the proximity to bus routes and the train station provide a high level of sustainable transport options for future residents.
54. Both public and statutory consultation has been carried out through which a number of concerns were raised. Through adaption of the proposal in responses to these concerns we are confident that there are no outstanding issue regarding the development.

55. Finally, the impacts of the development have been mitigated via a planning gain package which includes an offsite Play Space Contribution and a percentage for art contribution.

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://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=M4W1OFBN5B000

PLANNING CONSIDERATIONS AND ASSESSMENT

56. Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision.
57. In this instance, the relevant considerations are the principle of the development; in particular the accordance with the Governments recently published National Planning Policy Framework (NPPF), the emerging County Durham Plan (CDP), and the saved policies from the City of Durham Local Plan. Other material considerations are the scale, layout and design of the development, highways issues, affordable housing, ecology and trees and the concerns raised by local residents.

Principle of the development

58. Firstly, it should be noted that the planning permission which was approved in 2004 has been partly implemented through the creation of hardstandings, pile foundations and other associated groundworks. Therefore a fall-back position exists which would enable the previously approved scheme to be implemented. This scheme was of similar design to the one currently being proposed and was also three storeys in height. Therefore it could be argued that the principle of the development has already been established. However, in light of the change in policy since this application was approved a re-assessment of the principle of the development shall be made.
59. Saved Policy H2 of the City of Durham Local Plan allows for windfall development of previously developed sites within the settlement boundary of Durham City, provided that the scheme is appropriate in scale, design, location and number of units. This proposal seeks to redevelop a brownfield parcel of land within the settlement boundary of Durham City and as such this proposal is considered to wholly accord with this policy. In addition to this, the governments National Planning Policy Framework (NPPF) establishes a presumption in favour of sustainable development and has significantly more weight than the

dated Local Plan but also encourages the use of previously developed land. The proposal is considered to constitute an efficient use of land in the city centre with good access to community facilities such as schools, healthcare provision, shops and public transport links. It is therefore considered that the proposal is in a sustainable location for residential development in accordance with the principles and overarching aim of the National Planning Policy Framework.

60. The emerging County Durham Plan (CDP) will aim to direct the majority of new housing to the main towns and secondary settlements of the County. Policy 1 of the draft CDP states that the council will work proactively to find solutions that mean that development can be approved wherever possible. All development proposals will be assessed against sustainability considerations; relevant considerations listed in the policy include the need to locate development with the aim of reducing the need to travel, to promote sustainable communities by allowing small-scale development to meet local needs and considerations relating to sustainable design.
61. Policy 16 of the CDP states that development on unallocated sites will be permitted provided the development is appropriate in scale, design, and, location, and has regard to the character and function of the settlement and helps to consolidate the built form of the settlement.
62. As part of the on-going production of the CDP, a 'Settlement Study' has been carried out. This study looks at the amenities within the settlements across County Durham, including public transport, public and private services, and access to jobs. The findings indicate that Durham City has primary and secondary schools, GPs and health centres, community facilities and industrial estates and is a city with sub regional significance. The conclusion which can be drawn from this is that the area is very well served by services and facilities, greatly contributing to its sustainability. Overall, it is therefore considered that the proposal generally accords with the principles of the draft CDP.
63. Overall, in terms of the proposals accordance with planning policy, it is considered that due to the site being located within the settlement boundary close to community facilities, shops, schools and public transport links, it is considered to be in a sustainable location for residential development. In terms of the NPPF, this advises that there should be a presumption in favour of sustainable development such as the one proposed. Officers therefore consider the principle of bringing this site forward for residential development is acceptable given the previous planning approval which was commenced, and as it accords with the NPPF, the emerging CDP and saved Local Plan policies.

Scale, layout and design of the development

64. The NPPF's twelve core planning principles states that the planning process should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Good design, the NPPF states, is "indivisible from good planning."

65. Policy H13 of the LP states that planning permission will not be granted for new development that would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. Policies Q1, Q2 and Q8 list design features which will be encouraged within residential areas. In addition, saved Policy Q8 of this plan 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. These policies are reflected in part 7 of the NPPF which also requires good design and the protection of residential amenity.
66. In addition to the above, saved Local Plan Policies E6, E21 and E22 all require the character of conservation areas to be preserved or enhanced. Policy E6 is particularly relevant to this application as it relates to the Durham City Centre Conservation Area. It 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.
67. As described earlier, the main building steps down the site from south to north toward the river to respond to the natural topography of the site. Each section of elevation is broken down by projecting bay and orial corner windows which provide interest to each elevation. The roofs of the buildings are flat, and are set out at a series of undulating levels to respond to the changes in level through the site and to define the projecting openings. This also helps to break down the scale and massing of the proposed building and avoids heavily designed pitched roofs, also meaning that the overall height of the proposed building is reduced. The smaller replacement building on the site of Kepier House is designed as a separate building in both a response to the existing building on site and to further break down the scale of the overall development.
68. Officers have negotiated improvements to the scale, design and layout of the development and it is considered that the proposal would result in a modern and attractive development that would be appropriate to its river side context. The brick and render elevations would give a contemporary appearance and would respect the scale and context of the locality. It is considered that the proposals would enhance this part of the Durham City Conservation Area which at present is in an untidy derelict state in accordance with saved policies E6, E21 and E22 of the Local Plan.
69. As previously noted, planning permission was approved in 2004 and implemented thereafter for a scheme which was of similar design to the one currently being proposed and which was also three storeys in height. It is not considered that the current proposal would have any additional impact on surrounding occupiers or the street scene than the previously implemented scheme.
70. Overall, the development in terms of scale, design and layout is considered to be appropriate for this particular location. It is considered that the scale and

layout of the development is acceptable and the design is of a high standard, therefore the proposals are considered to be in accordance with saved City of Durham policies H13 and Q8 and NPPF part 7.

Highways Issues

71. Highways Officers initially objected to the proposals due to the lack of parking provision on the site. As a result of this objection, plans have been amended to show 47 car parking spaces on site, 21 more than what was originally proposed. 11 of the spaces would be at ground level and accessed from Ferens Close whilst 36 of the spaces would be located in an undercroft car park and accessed from Providence Way, it is also proposed to create 15 cycle spaces on site. The Councils Highways Officers have assessed the proposals and are satisfied that both the access to the site and the level of parking provision are acceptable. No concerns are raised with regard to on street parking congestion and it is noted that the surrounding area is restricted for use by resident parking permit holders or users of pay and display facilities. Therefore it is considered that the proposals are in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the NPPF.

Affordable housing

72. The County Durham Strategic Housing Market Assessment (SHMA) report was completed in 2012 and supplies the evidence base for 20% affordable housing across the Central Durham Delivery Area (on sites of 15 or more dwellings or above 0.5 hectares), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets. The SHMA, NPPF and Policy H12 of the Local Plan therefore provide the justification for seeking the delivery of affordable housing provision through this site.
73. Where the appropriate level of affordable housing is not proposed there must be evidence to justify a departure from adopted policy. In this instance the applicant has submitted a development appraisal to the Council which has been scrutinised by the Principal Valuation Officer. This development appraisal includes financial evidence to prove that the scheme would be unviable with any element of affordable housing due to the change in market circumstances since the developer acquired the site. The Principal Valuation Officer has agreed that the scheme presented within the appraisal would be unviable with any element of affordable housing due to the change in the market and abnormal construction costs.
74. In view of this, it is considered that sufficient justification has been submitted in order to justify the omission of affordable housing and there is a need to develop this currently derelict site within the Durham City Conservation Area.

Ecology and Trees

75. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 make it an offence to kill, injure or disturb the nesting or breeding places of

protected species unless it is carried out with the benefit of a license from Natural England. Accordingly, the Regulations have established a regime for dealing with derogations in the form of a licensing system administered by Natural England.

76. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty to have regard to the requirements of the Regulations/Directive in the exercise of its functions. A Local Planning Authority failing to do so would be in breach of the Regulations. Specifically, where a likely interference to a European Protected Species is identified, the LPA must consider whether a developer might obtain an EPS licence from Natural England, which in turn calls for an application of the derogation tests. The derogation tests are threefold as follows:
- That there is no satisfactory alternative
 - That the population of the species will be maintained at a favourable conservation status in their natural range
 - That there are imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance to the environment
77. In addition to the above, saved Policy E16 of the City of Durham Local Plan is aimed at protecting and enhancing the nature conservation assets of the former district. Development proposals outside specifically protected sites such as the application site 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 should be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
78. In this instance, an ecology report has been submitted by the applicant which recommends that various mitigation measures are carried out in order to offset the impact of the development. In addition, a bat roost has been found on site and a European Protected Species Licence would be required before the building on site can be demolished. The Council's Senior Ecologist has confirmed that the submitted ecology report is satisfactory and that no objections would be raised on the basis that the mitigation is conditioned as part of any planning consent. It is therefore considered that the Local Planning Authority has carried out its duties with regard to the Conservation of Habitats and Species Regulations 2010 and that the proposals are in accordance with saved policy E16 of the Local Plan and part 11 of the NPPF.
79. Saved Policy E14 sets out the Council's requirements for considering proposals which would affect trees and hedgerows. It states that 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.

80. In terms of the trees on the application site, the applicant has submitted an arboricultural survey in support of the application. The Council's Tree Officer has concluded that it is imperative that the protective measures are implemented before any ground preparation is commenced to ensure the root protection area of the trees are duly protected. As such, a condition should be imposed to ensure the trees are appropriately protected before any development commences in accordance with Local Plan Policy E14.

Letters of concern from nearby residents

81. As previously mentioned, seventeen letters have been received in response to the consultation exercise, sixteen of which are objections, although most of these letters of objection acknowledge the need to redevelop the derelict site. The main areas of concern are that the development would lead to traffic congestion and parking problems and that the access point from Ferens Close is unacceptable. Other concerns are that the building would have an adverse visual impact on the Conservation Area as it is out of scale and character and that it would lead to overshadowing and a loss of light to existing properties. There are also concerns that the proposals would lead to flooding and that there is a lack of cycle parking on the site. The letter of support from a nearby resident states their support for the redevelopment of what is a derelict site.
82. In terms of traffic congestion, parking and access, these issues have been assessed by the council's Highways Officers and have found to be acceptable; officers also consider that the level of car and cycle provision is acceptable. With regard to the scale and design of the building, officers have negotiated this in detail with the applicant and consider it to be acceptable. The building would replace a derelict building on an untidy site and would enhance the Durham City Conservation Area. It should also be noted that the proposal is very similar in scale and design to the previously approved planning permission which was implemented and therefore would have no greater impact on residential amenity. Finally, in terms of flood risk, the applicant has submitted a flood risk assessment in accordance with the requirements of the NPPF which has been assessed by drainage officers and the Environment Agency have been consulted on the application and have offered no objections to the proposals on the basis that the recommendations contained in the submitted Flood Risk Assessment are conditioned.
83. In light of the above, all of the issues raised by residents have been fully assessed either within this report or during the planning application process and their impacts are not considered to warrant refusal of planning permission.

CONCLUSION

84. Overall it is considered that the proposals are in accordance with the development plan and the National Planning Policy Framework. The proposed residential development is in a highly sustainable location near the city centre

with good access to public transport, local shops, healthcare providers, schools and other community facilities.

85. The scale, layout and design of the development are considered to be appropriate for this location and would visually enhance the Durham City Conservation Area. The proposals would deliver a high quality development whilst vastly improving what is an untidy and derelict site. The applicant has submitted evidence to justify the omission of affordable housing on grounds of viability which has been accepted by the Council's Principle Valuation Officer. Notwithstanding this, the developer has agreed to contribute £35,000 toward recreational facilities in the Electoral Division along with a contribution toward public art to be agreed.
86. On the basis of the above, officers recommended that the application be approved.

RECOMMENDATION

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

- i. A financial contribution toward recreational facilities and public art.

Conditions:

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; Site Location Plan SAN-001, Proposed Elevations 1 (00)500 Rev I, Proposed Elevations 2 (00)510 Rev J, Former Kepier Lodge Proposed Elevations (00)520 Rev F, Proposed Plan Level 00 (00)310 Rev M, Third Floor TSD-004, Basement TSD-000, Ground Floor TSD-001, First Floor TSD-002, Second Floor TSD-003.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policy Q8 of the City of Durham Local Plan.

3. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling, roofing materials and retaining wall materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with saved policy Q8 of the City of Durham Local Plan.

4. In relation to the development hereby permitted, no machinery shall be operated, no development shall be carried out and no construction traffic shall enter or leave the site outside the hours of 0800 hours and 1800 hours Mondays to Friday, 0800 hours and 1300 on Saturdays and not at all on Sundays and Bank Holidays.

Reason: In the interests of residential amenity and to comply saved policy H13 of the City of Durham Local Plan.

5. No development shall commence until a scheme for tree protection has been submitted and agreed in writing with the Local Planning Authority. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated in the agreed tree protection scheme as to be retained, are protected by the erection of fencing in accordance with BS.5837:2012.

Reason: In the interests of the visual amenity of the area and to comply with the National Planning Policy Framework part 11.

5. No development shall take place unless in accordance with the mitigation detailed within the contents of Section D4 (Mitigation Requirements) of the ' Ecological Surveys of The Sands, Durham' written by E3 Ecology Ltd and received Revision 4 dated 19.6.14

Reason: In the interests of protected species and to comply with the National Planning Policy Framework part 11.

6. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. 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. Replacements will be subject to the same conditions.

Reason: In the interests of the amenity of the area in accordance with saved policy Q8 of the City of Durham Local Plan.

7. Notwithstanding any information submitted, development shall not commence until a scheme demonstrating how CO2 reduction and energy efficiency measures will be incorporated into the approved development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented and retained in accordance with the approved scheme thereafter.

Reason: In order to secure a sustainable form of development in accordance with saved policy U15 of the City of Durham Local Plan and part 10 of the NPPF.

8. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority. The Scheme shall provide for:
 - i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area in accordance with the approved strategy,
 - ii) an assessment of the impact of the proposed development on any archaeological remains identified in the trial trench evaluation phase;
 - iii) Measures to ensure the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
 - iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
 - v) notification in writing to the County Durham Archaeology Section of the commencement of archaeological works and the opportunity to monitor such works.
 - vi) Post-fieldwork methodologies for assessment and analyses.
 - vii) Report content and arrangements for dissemination, and publication proposals.
 - viii) Archive preparation and deposition with recognised repositories.
 - ix) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualificationsThe development shall then be carried out in full accordance with the approved details.

Reason: To comply with Policy E25 of the former City of Durham District Plan as the site has archaeological potential.

9. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record. This may include full analysis and final publication.

Reason: To comply with Para. 141 of the NPPF, making the information generated publicly accessible.

10. No development shall take place until a site investigation and Desk top Study has been carried out in accordance with Part IIA of The Environmental

Protection Act 1990. The results of the site investigation shall be submitted and approved in writing by the local planning authority.

As a minimum requirement, the Desk Top Study should include the following information in relation to the study site:

- Historic Land Use
- Former contaminative site uses
- Typical contaminants from former industrial uses
- Watercourses, major underground aquifers, water source protection zones, at or close to the site
- Ground water, perched ground water
- Adjacent land uses and their historical land use, and potential to affect the study site
- All former holes in the ground on or close to the study site

If the desk top study determines there is no historical land use which may cause contamination of the site, no further action is required in relation to the contaminated land risk assessment.

If any historical land use which may cause contamination of the site is found from the desk top study site investigation, a 'Phase 2 Report' will be required as detailed below.

Phase 2 Report

A further report shall be submitted to and approved in writing by the local planning authority. This report shall take into consideration the relevant aspects of the desk top study and discuss remediation measures in accordance with appropriate legislative guidance notes.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority

Phase 3 – Validation Report

After remediation measures are implemented at the site, a final validation statement shall be submitted in accordance with the remediation recommendations of the above 'Phase 2' report.

Reason: To ensure that the application site is safe for the approved development, as required by paragraph 121 of the National Planning Policy Framework and in accordance with saved Policy 1 of the Easington District Local Plan and part 11 of the NPPF.

11. The development hereby approved shall be carried out in accordance with the mitigation measures contained within the submitted Flood Risk Assessment by CK21 of June 2014.

Reason: To ensure appropriate drainage is maintained in accordance with saved policy U8a of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the local planning authority has worked with the applicant and nearby residents in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Emerging County Durham Plan
Internal consultee responses



Planning Services

Land at Kepier House, The Sands,
Durham

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.

Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.

Durham County Council Licence No. 100022202 2005

Date December
2014