

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/01101/FPA
FULL APPLICATION DESCRIPTION:	Demolition of garage units and redevelopment to provide 55 bed student accommodation and associated communal and ancillary facilities
NAME OF APPLICANT:	3R Land & Property
ADDRESS:	Land to the Rear of 21 Market Place, Durham.
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is an area of land to the rear of 21 Market Place in Durham, which is also known as Back Silver Street. The site is unkempt with several mature trees and shrubbery and there are several garage blocks along the west boundary.
2. The site lies within the Durham City Conservation Area and is also close to the Durham Castle and Cathedral World Heritage Site. To the east of the site are the commercial buildings which face onto the Market Place. Durham Indoor Market and the Wiff Waff bar are located directly to the north of the site. Commercial properties are located to the south with residential apartments, known as Clements Wharf, immediately to the west with the River Wear situated beyond.
3. The site itself steps down in a series of terraces from the rear of the buildings along Market Place down to Back Silver Street, and is restrained in several places by extensive buttressed retaining walls. These split the site into numerous small parcels of land, some level, and some excessive gradients. Within these areas there are a number of fire escape stairways from the rear of Market Place which cut through to the lower level footpath to the west of the site.

The Proposal

4. Planning permission is sought for the erection of 18no. apartment/studios containing in total 55no. bed spaces, along with living/dining/kitchen and bathroom facilities. The building is proposed to be 5 storey's in height, approximately 13.5 metres high when measured from Back Silver Street. The building is divided into 5 blocks and have stepped roofscape and staggered building line.

5. The proposed materials will predominately be rustic red facing brickwork with a modern slate roof, aluminium windows and rainwater goods. Cycle parking and bin stores are provided within the building and two disabled parking bays are provided adjacent to the site.
6. This application is referred to the Planning Committee as it constitutes a major planning application.

PLANNING HISTORY

7. Two applications were submitted in 2002 for residential accommodation on part of the site which involved the erection of four storey blocks. Both these applications were refused at planning committees.
8. An application for a five storey building for a mix of commercial and residential on this site was submitted in 2008. This application was recommended for approval by Officers and subsequently refused by a planning committee. This refusal decision was appealed to the Secretary of State and the appeal was allowed. This permission has since lapsed.

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’.
11. The following elements are considered relevant to this proposal;
12. *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.
13. *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.
14. *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 application 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.

15. *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.
16. *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.
17. *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.
18. *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.
19. *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

20. *Policy E3 (World Heritage Site) Protection* seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
21. *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.
22. *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.

23. *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.
24. *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.
25. *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.
26. *Policy E23 (Listed Buildings)* seeks to safeguard listed buildings and their settings.
27. *Policy H7 (City Centre Housing)* seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
28. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
29. *Policy H16 (Residential institutions and Student Halls of Residence)* provides for purpose-built accommodation provided that they are well related to local facilities and are not likely to impact adversely on adjacent development or lead to community imbalance.
30. *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.
31. *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.
32. *Policy T20 (Cycle facilities)* seeks to encourage appropriately located, secure parking provision for cyclists
33. *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.

34. 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.
35. 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.
36. 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.
37. 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.
38. 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
39. *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 constraint the development of neighbouring land.
40. *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.
41. 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.
42. Policy U13 (Development on Unstable Land) will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
43. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY

44. Paragraph 216 of the NPPF says that 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. The County Durham Plan was submitted for Examination in Public in April 2014 and stage 1 of that Examination has been concluded. However, the Inspector's Interim Report which followed, dated 18 February 2015, has raised issues in relation to the soundness of various elements of the plan. In the light of this, policies that may be relevant to an individual scheme and which are neither the subject of significant objection nor adverse comment in the Interim Report can carry limited weight. Those policies that have been subject to significant objection can carry only very limited weight. Equally, where policy has been amended, as set out in the Interim Report, then such amended policy can carry only very limited weight. Those policies that have been the subject of adverse comment in the interim report can carry no weight. Relevant policies and the weight to be afforded to them are discussed in the main body of the report.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

45. *County Highways Authority* – awaiting response on the latest revised drawings. Update to be made at the committee meeting.
46. *Durham University* have objected to the proposed development with the primary reasons being the need for student accommodation and impact on the World Heritage Site.
47. *Historic England* has raised no objections.
48. *Environment Agency* has not raised any objections.
49. *Northumbrian Water* has not raised any objections however has recommended that a condition is imposed for details of surface water disposal from the site to be submitted.
50. *Police Architectural Liaison* has provided advice in terms of safety and security around the site.
51. *The Coal Authority* has not raised any objections.

INTERNAL CONSULTEE RESPONSES:

52. *Archaeology* has not raised any objections subject to the imposition of conditions requiring a programme of archaeological work to be submitted prior to works on site.
53. *Sustainability Officer* has not raised any objections to the scheme. A condition is recommended for embedding sustainability within the development.
54. *Environmental Management (Contamination)* has not raised any objections subject to a condition requiring the submission of a contamination site investigation report.
55. *Environmental Management (Noise)* has not raised any objections.
56. *Environmental Management (Air Quality)* has not raised any objections.

57. *Ecologist* has not raised any objections to the proposed development.
58. *Design and Conservation* has not raised any objections to the proposed scheme.
59. *Landscape Team* has not raised any objections to the proposed scheme.
60. *Tree Officer* has not raised any objections to the proposed scheme.
61. *Drainage Officer* has not raised any objections to the proposed scheme.
62. *Targeted Recruitment Training* has provided advice with regards to employment opportunities and training for the proposed development.
63. *Spatial Planning Policy* has not raised any objections to the proposed development.

PUBLIC RESPONSES:

64. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. 5 letters of representation have been received from local residents. Letters have also been received from the World Heritage Site Co-ordinator and City of Durham Trust, both of which are objecting to the scheme.
65. Concerns are raised in relation to the overconcentration of students and the potential for anti-social behaviour which can arise from students living in the area.
66. Objections have been raised with regards to the impact the development would have on the conservation area and the appearance of the surrounding area. It is considered by local residents that the proposed scheme is too large in scale and height and would dominate the surrounding area. The design of the buildings are not considered to be in keeping with the area and insufficient amenity space would not be provided within the scheme. There are concerns that the proposal would result in the loss of privacy to neighbouring properties.
67. It has also been questioned whether there is a need for student accommodation, and that there is no evidence that Homes in Multiple Occupancy (HMO) will become vacant as a result of Purpose Built Student Accommodation (PBSA). A local resident feels that there is no guarantee that this development will be occupied by students. It is also not considered that the development would benefit the local economy.
68. Previous applications on this site, in particular the 2002 applications, have been noted by objectors indicating that these schemes were refused on scale and height, and impact on the conservation area.

APPLICANTS STATEMENT:

69. The proposed development seeks the re-use of a derelict brownfield site in a key city centre location at Back Silver Street. Such development on previously developed land is important to maintain the vitality of the city centre and reduces pressure on greenfield sites.
70. Back Silver Street and Fowler's Yard has been the subject of regeneration efforts in recent years, including public realm improvements, and the area currently hosts a range of independent businesses. The proposals will assist in creating a gateway

into this creative part of the city and this high-quality building will make a positive contribution to the appearance of the wider area in sharp contrast to its current role. The proposals are estimated to provide £170,000 additional expenditure per year, representing a substantial boost to local trade and business.

71. The proposed apartments and studios will be owned and operated by a local, family run business in Q Student who have a portfolio of over 60 student properties in the City. The design provides high quality apartments and studios which are expected to be popular with more mature undergraduates and post graduates.
72. The design ensures that the development will sit comfortably within its surroundings, respecting its sensitive setting within Durham's historic cityscape. The views of the building from the west of the river and the Milburngate and Framwellgate bridges have influenced the design greatly and the proposals acknowledge the prominence of the site within its wider context
73. The scale, massing and quantity of development have been carefully considered to reflect the site's location within the centre of the city. Furthermore the impact on nearby residents and businesses has been considered through the submission of draft Construction Management and Student Management plans which the developer is willing to discuss with the Council in order to ensure that disruptions are minimised.
74. The proposals represent a highly sustainable form of development which will provide high quality accommodation scheme in the place of a derelict brownfield site

PLANNING CONSIDERATIONS AND ASSESSMENT

75. 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 clarification on County Durham Plan policies, principle of development; impact upon the character, appearance and setting of heritage assets and surrounding area; impact on residential amenity; highway safety; ecology and other issues.

Principle of development

76. The application proposes the erection of a purpose built student accommodation development on land within Durham City Centre. The proposal would therefore be in accordance with the sustainable principles of the NPPF as the proposal demonstrates an efficient use of land with good access to services and public transport.
77. The local plan has a specific policy, H16, which relates to student halls of residence and forms of residential institutions. Policy H16 states that planning permission will be granted for such developments provided that they are situated within close proximity to services and public transport links, satisfactory standards of amenity and open space are provided for occupiers, that the development does not detract from the character or appearance of the area or from the amenities of residents and finally with regards to student halls that they either accord with the provisions of Policy C3 or that the proposal would not lead to a concentration of students to the detriment of the amenity of existing residents.

78. Policy C3 of the local plan relates to development by the University of Durham, the University are not the applicant on this proposal and therefore this policy is not strictly relevant to this particular application. The proposal is not considered contrary to Policy H16 on sustainability grounds as the site is well located in terms of local services and within easy walking distance of bus routes, local shops and University buildings.
79. The NPPF emphasises the need to ensure mixed and inclusive communities mentioned at paragraph 50 and encourages that development establishes a strong sense of place and sustains an appropriate mix of uses as detailed in paragraph 58. The local area does include a mix of uses in the immediate area with commercial buildings surrounding the site and residential apartments to the west. The local area can therefore be considered to have a mixed use character which could be expected in the City Centre.
80. Given the above it is considered that the site is sustainably located in an area which has an existing mix of uses. The proposals are therefore considered to be in accordance with the presumption in favour of sustainable development as outlined in the NPPF. The development would also be acceptable in principle and in accordance with policy H16 of the local plan. The proposal would be in accordance with policies E22, H13 and Q8 of the local plan and in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
81. A number of objectors to the proposed scheme have indicated that a need assessment for the proposed development has not been undertaken. Current local plan policies and national policy do not require student developments to justify need. As described in paragraph in the paragraph below there was an amended version of Policy 32 of the CDP which introduced a requirement for the demonstration of need for student accommodation however legal advice confirms that no weight should be given to this policy.
82. Policy 32 of the Submission Draft version (April 2014) County Durham Plan did not include specific policy on Purpose Built Student Accommodations (PBSA) such as the development proposed in this application. This was subject to objection and subsequent debate at the subsequent Examination in Public (EIP) and as a result the Council proposed a "Main Examination Hearing Change" that introduced specific PBSA guidance. However, the EIP Inspector in his Interim Report considered Policy 32 unsound. Legal advice to the Council is that no weight can now be ascribed to policy 32 of the emerging County Durham Plan.

Impact upon the character, appearance and setting of heritage assets and surrounding area

83. The application site is presently unkempt including a disused and vandalised garage block which detracts from the entrance into Fowlers Yard and the regeneration works undertaken in recent times. Due to this, the site is considered to make no positive contribution to the area. Historic map reveals former buildings on the site, however these were cleared in the 1970's. The site is considered significant as a component of the conservation area, in forming part of the wider setting of Durham Cathedral and Castle World Heritage site, and in being within the context and setting of a number of listed buildings. The site is also significant in terms of visibility from a number of local and wider viewpoints from within and around the western part of the city centre.
84. The layout and arrangement of the development relates effectively to the site and its surrounding, the blocks orientated and arranged to follow the historic urban grain, and providing a strong frontage presence. The building composition is influenced

and representative of the simple shapes and widths of the historic plot pattern to the rear which is appropriate. The incorporation of variants to the roof form, the breaking up of the façade by the use of smaller blocks flanking the larger blocks, voids between the blocks, and through building line modulation would break up the perceived scale and massing.

85. The 5 storey blocks would be greater in height than a number of the surrounding buildings at street level, but they would not appear unduly excessive when considered in the context of the Market Hall and the riverside apartment block, as well as the industrial warehouse buildings fronting Fowlers Yard. The large scale of the whole development is acknowledged, however at this particular site development must fill the entire space with sufficient height, floor volume and articulated roofscape, key to successful townscape integrated, which is demonstrated in the proposals. A lower scaled development seen in isolation and not interacting with the unique roofscape would be out of keeping with the characteristics of the area. The scale and massing also ensures that the development responds to the sheer mass of the Market Hall being subordinate yet adding to the strong sense of enclosure, a further defining characteristic of the locality. In design terms, the development would respect the local development pattern in this part of the city and would successfully integrate into the wider cityscape. The roofscape would be the most visible aspect of the development and this has been well considered in the design solution with the rhythm of the gables mirroring those of the adjacent market hall while responding positively to the roof forms cascading loosely down from the Market Place.
86. Redevelopment of the site will undoubtedly have an impact on designated elements of the townscape; most important of these is the Durham World Heritage Site. The principle views towards the Cathedral and Castle most directly affected by the proposed development are those looking southeast towards the site from Leazes Road Bridge, east from Milburngate and the riverside, and in views northwards from either end of Framwellgate Bridge. In these views the development would undoubtedly feature, however it would be seen against a complex and varied urban background displaying numerous phases of expansion and extension incorporating varied roof forms cascading down to riverside level. The development would be in keeping with this context responding to the visual hierarchy, while being absorbed into the background architecture. It would sit well below the skyline without challenging the visual drama or dominance of Durham Cathedral and Castle, and without intruding or disrupting any direct sight lines towards the heritage assets. On balance, the proposals impact upon the World Heritage Site is considered to be mitigated to an acceptable level. It could be argued that the proposal improves the setting of the World Heritage Site, by infilling a noticeable gap in the dense urban fabric and roofscape with an appropriately designed and integrated development.
87. The development will result in the loss of a site which makes no positive contribution to the surrounding conservation area; therefore appropriate redevelopment would be considered to have a positive effect. From surrounding views, the majority of the development is largely screened by existing buildings. The most dominant aspect of the development to be read in surrounding views would be the roofscape but this has been addressed in the formulation of the design creating articulated forms that would not appear overpowering and would be in keeping with the unique roofscape, an integral part of the character of the city and its varied skyline. In view of the above, the wider visual impact upon the conservation area is considered to be negated. The development would be considered to enhance the street frontage, as the site is presently of poor quality which detracts from the public realm and the overall character of this unique part of the city, thus development would be considered wholly positive at a local level.

88. The listed buildings most obvious in surrounding public views are the Church of St Nicholass (Grade II), Town Hall and Guild Hall (Grade II*), Market Hall (Grade II), Durham Castle, predominantly the north range (Grade I), Durham Cathedrals westend and the central tower (Grade I), and Framwellgate Bridge (Grade I & Scheduled Monument). The other nearby listed buildings such as Nos 19 to 25 Market Place (all individually listed Grade II) are more difficult to distinguish within the densely built up rear environment. The proposals would have no direct impact upon these heritage assets; however given the intervisibility between the listed buildings and the site the proposals will affect their setting and be seen in relation to them. In considering this, due to the sites lower level position and resulting visual separation this creates, as well as the density and diversity of the surrounding urban form, the proposed development would not adversely affect the listed buildings prominence within the townscape. The development would clearly not affect any significant nonvisual factors such as their historic interest, relationships and the understanding of their past. Given the above the development is not considered to compete with or affect the setting of the surrounding listed buildings.
89. Given the above comments it is considered that the proposed development would preserve the character and setting of the Durham City Conservation Area and would not have a detrimental impact on the appearance of the surrounding area. Overall the proposal is considered to be in accordance with policies E3, E6, E23 and E22 of the local plan and in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
90. Details within the design and access statement do indicate that the building is to be constructed predominately from rustic red facing brickwork, modern slate roof and aluminium windows and rainwater goods. It is noted that natural slate would be a preferred option. No specific details have been submitted however therefore a condition is recommended for final materials to be agreed.

Impact on residential amenity

91. A key issue is the suitability of the site for the development having regards to the impacts upon residential amenity, more broadly regarding the potential for disturbance and noise through the concentration of students but also with regards to specific relationships with the closest properties.
92. Policy H16 of the Local Plan states student hall developments that would result in a concentration of students that would adversely detract from the amenities of existing residents will not be considered acceptable development. This is supported by Policy H13 which states that planning permission will not be granted for development that would have an adverse impact upon the character of residential areas or the amenities of residents within them. Paragraph 50 of the NPPF refers to the need to create sustainable, mixed and inclusive communities and paragraph 58 within the design section of the NPPF emphasises the need to create safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion.
93. The issue of the dense concentration of students and impact this may have on the residential amenity of the surrounding area is a material consideration. Whilst such behaviour associated with students often gets exaggerated along with the frequency and magnitude it is important for the confidence of all to have a well-defined management plan. The proposed accommodation would be managed by Q Student, who are a well-established student lettings company based in Durham and are already responsible for over 60 properties across the City. A student management plan has been submitted with this planning application. This management plan would

implement measures on site, such as, full time general management, complaints procedures, apartment management, management of communal areas and traffic management. There are restrictions in this area with regards to highway traffic, loading and unloading, and this street can become busy with commercial deliveries. It is considered more details are required in terms of the traffic management of the scheme, especially at the beginning and end of term times when students will be required to load and unload vehicles. An addendum is therefore required to the student management plan for further details to the traffic management. A condition is recommended accordingly.

94. It is fair to say that a dense residential nonstudent apartment scheme as well as HMO's will raise from time to time some disruptive behaviour without the control of a strong management structure, relying purely on other legislative controls. Notwithstanding existing controls the management plan and company will be the first recourse and as such this is considered an effective method of controlling such behaviour should it occur, aided by two way communication with community representatives. A condition is recommended to ensure that a full management plan is implemented and maintained in perpetuity.

95. Policy Q8 considers that in order to provide adequate levels of amenity and in order to maintain privacy, 21 metres should be achieved between main windows serving habitable rooms. The majority of the proposed windows face west onto existing commercial buildings and the residential apartments in Clements Wharf. The separation distances between the proposed windows and the residential apartments would be 13 metres and 10 metres at two separate points. The architect for the scheme has acknowledged these reduced separation distances and have designed angled windows on the front elevations so the proposed windows do not directly overlook the residential apartments. Given these angled window designs, it is not considered that the existing apartments would experience any significant loss of privacy.

96. In conclusion there are no objections to the proposed development on the grounds of harm to residential amenity, either with regards to the influx of the number of students to the site nor with regards to specific relationships between the site and the nearest properties. The proposal is therefore considered to accord with policies H16 and H13 of the Local Plan as well as not being in conflict with the aims of policy Q8 to safeguard the amenity of existing and proposed occupiers.

Highway safety

97. The proposed development is within an accessible location for sustainable transport modes, being close to public transport facilities and with good links to the University facilities. No parking spaces are to be provided for residents other than the provision of disabled parking.

98. The Highways Officer has commented on the scheme indicating that the main challenges to this development are the access arrangements for construction, servicing and safe pedestrian and cyclist movement. Vehicular, pedestrian, and cycle access would all be required from Back Silver Street as there is no access to the development direct from Market Place or Silver Street.

99. Back Silver Street is a narrow restricted carriageway with limited vehicular access. It carries no waiting/loading restrictions throughout and has 'Keep Clear' markings to the edge of the carriageway outside Durham Markets. Inconsiderate loading and parking demand in the street has resulted in obstruction hence the road markings. Back Silver Street and Fowlers Yard are adopted highways although there is a paved

area adjacent to the site which is not adopted. The proposed plans submitted do indicate that a paving scheme to the satisfaction of the local authority would be introduced on Back Silver Street including non-adopted land. To ensure the safety of pedestrians and safe egress from the development it is essential that an adequate paving scheme is achieved. A condition is therefore recommended for a paving scheme to be submitted prior to any works commencing on site. This paving scheme would also need to include removal of the existing bin store and construction of a footway from Durham Markets to the development.

100. The proposed development would provide some cycle parking within a covered area in the proposed building to be shared with the bin store area. The Highways Officer considers this to be unacceptable and extremely poor design and would not encourage this mode of transport. There are also no facilities for short stay cycle parking. The Highways Officer has stated that the lack of quality cycle parking provision is extremely disappointing for a student development where the Council seek to promote and support cycling as a viable mode of transport. Therefore the Highways Officer has indicated that he cannot support the application on this basis.

101. Whilst it is acknowledged that the poor level of cycle parking provision for this scheme is disappointing, this element of the scheme does need to be weighed against the benefits of the scheme. The site is an unkempt site which currently detracts from the character and appearance of the conservation area, surrounding listed buildings and the setting of the World Heritage Site. The development has clear benefits in providing a quality scheme which enhances the character, appearance and setting of the surrounding area and heritage assets. Given the restrictions of the site, in terms of varying levels, this has only allowed for the scheme to have an active frontage to the west. As previously described, it is disappointing that the cycle parking provision is poor, however it is noted that cycle parking provision has been incorporated into the scheme. There are clear benefits in visual terms that the development brings to the surrounding area. On balance, it is not considered that the poor cycle parking provision is a sufficient reason to refuse permission in this instance.

102. It is also noted that due to the access restrictions in this area, construction of the site will be difficult. To ensure no negative impacts are experienced by existing business users in the area during construction phase, it is essential that a construction management plan is produced which highlights how and when deliveries will take place. A condition is recommended accordingly for the submission of a construction management plan to be submitted prior to works commencing on site.

103. Given the above, it is considered that the proposed development would not have an adverse impact on highway safety in the area and although there is poor cycling parking, on balance the scheme is considered acceptable. The proposal would not be contrary to policies T1, T10, and T21 of the local plan.

Ecology

104. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is 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 licence from Natural England.

105. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and where this is likely to be an interference with an EPS must consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
106. A Phase 1 Habitat Survey of the site has been submitted with the application. This survey concludes that the site is poor in terms of habitat structure and wildlife value. The existing garage structures and the trees on site do not have any suitable bat roosting features. The submitted survey has been analysed by the County Ecologist. The County Ecologist has confirmed that there are no objections to the findings of the survey. Subsequently it is not considered that the proposed development would have an adverse impact on protected species or their habitats and would be in accordance with part 11 of the NPPF.

Other issues

107. The County Archaeologist has not raised any concerns with regards to the proposed development however a condition is requested for a programme of archaeological work to be undertaken prior to works commencing. A condition is recommended accordingly.
108. Whilst it is noted that there are some landscaped public areas designed into the proposed scheme, there is no formal open space or public recreational space proposed. In accordance with policies R1 and R2 of the local plan financial contributions towards open space provision within the area can be sought from the developer and this can be sought by a section 106 legal agreement. The Council also encourage the provision of artistic elements in the design and layout of new development. In accordance with Q15 contributions towards public art can also be secured through section 106 legal agreement. The developer has agreed to pay a commuted sum of £18,648 towards open/recreational space and to pay a contribution of 1% of build costs towards public art. It is therefore recommended that permission is granted subject to the completion of a section 106 legal agreement for contributions towards open space, recreational facilities and public art within the near locality. These contributions would be in accordance with policies R1, R2 and Q15 of the local plan.

CONCLUSION

109. The proposed development is considered acceptable in principle as it is sustainably located in an area which has an existing mix of uses. The land is located within the defined settlement boundaries and is not allocated for a specific use. The proposals are therefore considered to be in accordance with the presumption in favour of sustainable development as outlined in the NPPF. The development would also be acceptable in principle and in accordance with policy H16 of the local plan.
110. The proposed development has been sensitively designed and it is considered that the proposal would enhance the character and setting of the Durham City Conservation Area and would not have an adverse impact on the appearance of the surrounding area. There would be no adverse impacts upon the setting of nearby listed building or the Durham World Heritage Site. The is currently unkempt and the proposed scheme would greatly improve the appearance of this area. Overall the proposal is considered to be in accordance with policies E1, E3, E6, E10, E22, E23 and E24 of the local plan.

111. The proposed development would not create adverse harm to residential amenity, either with regards to the influx of the number of students to the site nor with regards to specific relationships between the site and the nearest properties. The residential amenities of existing and future occupiers of surrounding neighbouring properties as well as occupiers of the proposed development would not be adversely compromised. The proposal is therefore considered to accord with policies H16 and H13 of the Local Plan as well as not being in conflict with the aims of policy Q8 to safeguard the amenity of existing and proposed occupiers.

112. The site is considered to be in a sustainable location with good pedestrian and public transport links to shops, services and public facilities. Improvements to the surrounding pavements are to be made which will be to the benefit of pedestrians. The proposed cycle parking provision is considered poor however this substandard provision is outweighed by the clear benefits the development brings in terms of impacts on the conservation area. It is considered that the proposed development would not have an adverse impact on highway safety in the area and the proposal would not be contrary to policies T1, T10 and T21 of the local plan.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a Section 106 legal agreement to secure the payment of commuted sums towards open space, recreational facilities and public art in the locality and subject to the following conditions;

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Plan Ref No.	Description	Date Received
P-100 A	Block Plan/Roof Plan	06/07/2015
P-102 A	Proposed Second/Third Floor Plans	06/07/2015
P-103 A	Proposed Fourth Floor/Roof Plans	06/07/2015
P-106 A	Proposed Site Sections BB and CC	06/07/2015
P-107 A	Proposed Site Section DD	06/07/2015
001	Site Location Plan	09/04/2015
P-104 A	Proposed Street Elevation (AA)	06/07/2015
P-101 A	Proposed Ground/First Floor Plans	06/07/2015
P-105 A	Proposed North, South and East Elevations	06/07/2015
	Student Accommodation Management Statement by Q Student	09/04/2015

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

3. No development shall take place until a paving scheme for the land west of the site, which includes removal of the existing bin store and construction of a footway from Durham Markets to the development site, has been submitted to and approved in

writing by the local planning authority. The building must not be occupied until the completion of approved scheme.

Reason: In the interests of highway safety and to accord with policy T1 of the City of Durham Local Plan.

4. No development shall take place until a construction management plan, which identifies delivery operations, has been submitted to and approved in writing by the local planning authority. The construction of the development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and to accord with policy T1 of the City of Durham Local Plan.

5. Notwithstanding any details of materials submitted with the application no development shall commence until details of the external walling, roofing materials, windows details and hardsurfacing 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 E3, E6 and E22 of the City of Durham Local Plan.

6. No development shall take place until a detailed scheme for the disposal of surface and foul water from the development hereby approved has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the amenity of the area and to comply with policy U8a of the City of Durham Local Plan.

7. No development approved by this permission shall be commenced until:
 - a) the application site has been subjected to a phase 1 preliminary risk assessment (desk top study) to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site and has been submitted to and approved by the LPA;
 - b) should the potential for contamination be identified a detailed site investigation report of the site including investigation and recording of contamination shall be submitted to and approved by the LPA;
 - c) 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;
 - d) 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;
 - e) 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
 - f) 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.

8. Before the development hereby approved is occupied details of ventilation and glazing combinations, and details of proposed plant machinery shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details and permanently retained thereafter.

Reason: To safeguard the residential amenity of neighbouring residents and to comply with policies H13 and Q8 of the City of Durham Local Plan.

9. 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 that shall be submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:
 - i) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
 - ii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
 - iii) Post field work methodologies for assessment and analyses.
 - iv) Report content and arrangements for dissemination, and publication proposals.
 - v) Archive preparation and deposition with recognised repositories.
 - vi) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
 - vii) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

Reason: To comply with criteria detailed in the NPPF as the site is of archaeological interest.

10. 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.

Reason: To comply with paragraph 141 of the NPPF which ensures information gathered in terms of archaeological interest becomes publicly accessible.

11. Notwithstanding the details submitted within the application no development shall commence until an addendum report to the submitted Student Accommodation Management Statement by Q Student (dated 4th March 2015), detailing specific traffic management procedures, has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the agreed details, with adherence to the agreed management scheme in perpetuity.

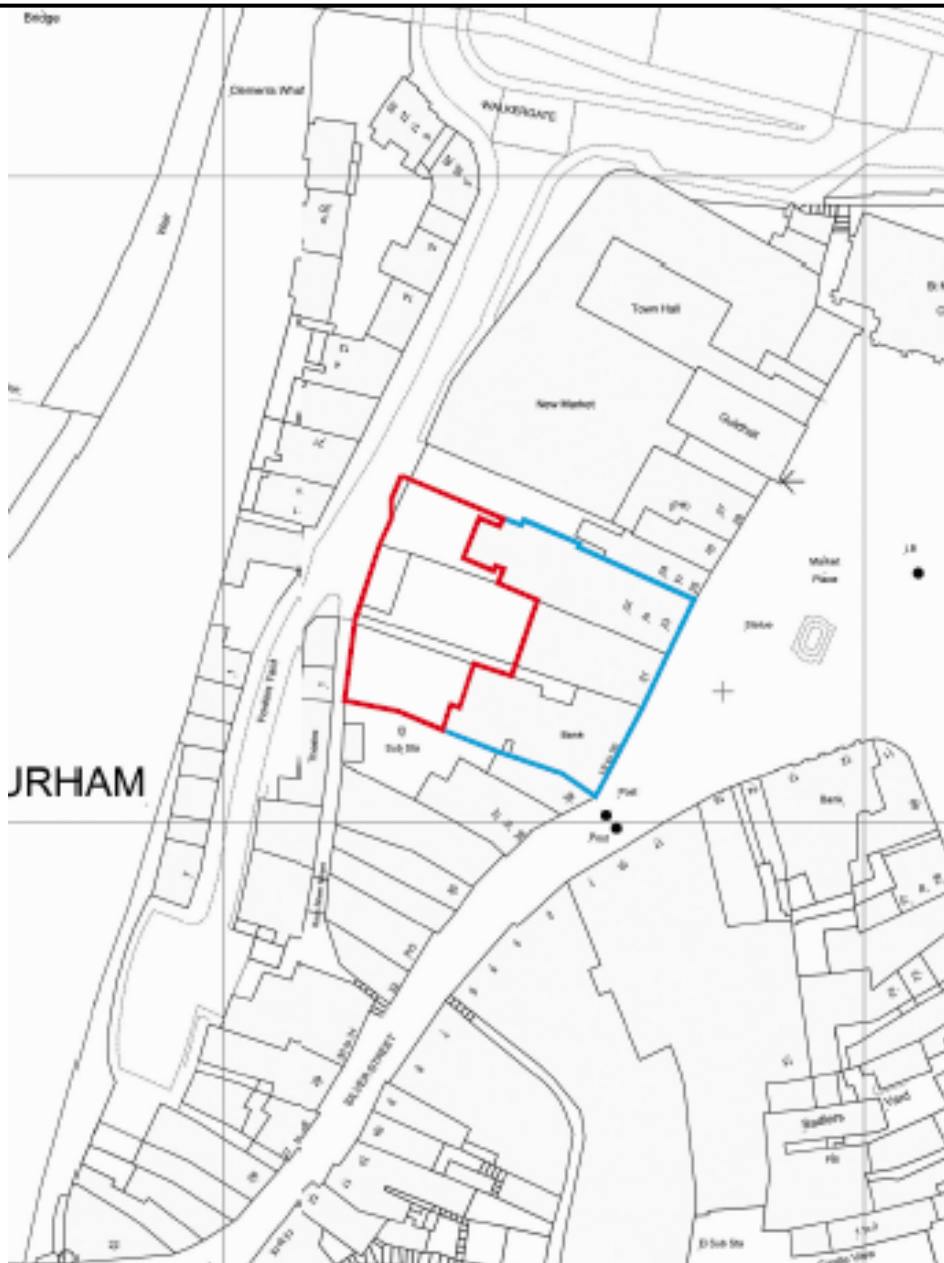
Reason: In the interests of reducing the potential for harm to residential amenity, anti-social behaviour or the fear of such behaviour within the community and in the interests of highway safety having regards Policies T1, H16 and H13 of the City of Durham Local Plan 2004.

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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance
County Durham Plan (Submission Draft)





Planning Services

Demolition of garage units and redevelopment to provide 56 bed student accommodation and associated communal and ancillary facilities at land to the Rear of 21 Market Place, Durham.

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Date
14th July 2015