

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/15/03945/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Proposed residential development of 6 No. linked dwelling houses.</b>
<b>NAME OF APPLICANT:</b>	<b>McCarrick Construction Company Ltd.</b>
<b>ADDRESS:</b>	<b>67 Front Street, Pity Me, Durham, DH1 5DE</b>
<b>ELECTORAL DIVISION:</b>	<b>Framwellgate and Newton Hall</b>
<b>CASE OFFICER:</b>	<b>Chris Baxter</b> <b>Senior Planning Officer</b> <b>03000 263944</b> <a href="mailto:chris.baxter@durham.gov.uk">chris.baxter@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a parcel of land situated to the north of 67 Front Street in Pity Me. The application site measures approximately 0.1 hectares, with the west section of the site being relatively flat and the east section sloping upwards significantly towards the residential properties at Smithfield. The site was predominantly covered by vegetation however this has recently been removed and the site scraped.
2. To the north of the site is mature tree planting and these trees are protected by Tree Preservation Orders. Immediately to the south of the site is the gable elevation of No. 67 Front Street with the terrace situated beyond. To the west of the site is the A167 highway and the Rotary Way roundabout. The residential properties of Smithfield are located to the east which is situated at a higher level to the level of the application site. Residential apartment blocks are located to the south west.

### The Proposal

3. This application seeks planning permission for the erection of 6no. linked dwelling houses. Each property would have lounge and kitchen area at ground floor. Two of the properties are proposing 2 bedrooms and four properties would have 3 bedrooms. The properties would be set back from the road to accommodate 10 parking spaces and bin shelters which would be located to the front of the properties. The rear of the properties are to be graded into three levels with patios at ground level and steps leading up to a grassed garden level. The third level will be a communal area Access to the site would be taken from Front Street and the proposals would include the extension of the highway from Front Street along the site frontage.

4. This application is being referred to the planning committee at the request of the Parish Council.

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## **PLANNING HISTORY**

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5. Planning permission was approved in February 2002 for the erection of a single dwelling on the site (ref: 4/11/00776/FPA)
6. Planning permission was also approved in July 2013 for the erection of 5no. new dwellings. (ref: 4/13/00308/FPA)
7. Planning permission was refused in September 2015 for the erection of 6no. linked dwelling houses at a Planning Committee contrary to Officer recommendation. (ref: DM/15/01812/FPA) This application was refused for the following reasons:
  1. The proximity of the development would be likely to have a detrimental impact on the adjacent protected tree that is a critical part of the existing mature landscaping at the prominent gateway location. The development would therefore be contrary to saved Policies E14 and E16 of the City of Durham Local Plan 2004.
  2. The layout and design of the proposed development fails to provide for residents to adequately access to rear gardens and would also result in an unsatisfactory relationship to the protected tree thereby having an adverse impact on the amenity of occupiers contrary to Policies Q1, Q2 and Q8 of the City of Durham Local Plan 2004.

An appeal is currently pending on this refusal decision.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

8. 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.
9. 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’.
10. 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 21<sup>st</sup> 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 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.
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. *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.
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.

*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**

18. *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.

19. *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.
20. *Policy H2 (New Housing Development within Durham City)* sets out criteria outlining the limited circumstances, in which new housing within Durham City will be permitted, this being primarily appropriate on previously developed land and through conversions.
21. *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.
22. *Policy H14 (Improving & Creating More Attractive Residential Areas)* seeks to improve the environment of existing residential areas and their housing stock.
23. *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.
24. *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.
25. 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.
26. 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.
27. *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.
28. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

## RELEVANT EMERGING POLICY

### The County Durham Plan

29. 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 and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, policies of the CDP can no longer carry any weight at the present time.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

30. *County Highways Authority* has not raised any objections to the proposed development. The proposed parking provision would meet the minimum parking standards for the proposed dwellings. The developer would have to enter into an agreement under Section 278 of the Highways Act to permit construction of the access road and footway.

31. *Northumbrian Water* has not raised any objections to the proposed development subject to a condition for the details of foul and surface water discharge to be submitted.

32. *The Coal Authority* has not raised any objections to the proposed development.

### INTERNAL CONSULTEE RESPONSES:

33. *Ecologist* has not raised any objections to the scheme.

34. *Landscape Team* indicated on the previous scheme that the development would not have an effect on the natural life expectancy of the tree.

35. *Tree Officer* has not raised any objections to the scheme.

36. *Drainage Officer* has not raised any objections to the scheme.

37. *Sustainability Officer* has not raised any objections and has indicated that the applicant should seek to minimise energy from construction whilst also considering renewable/low carbon technologies.

### PUBLIC RESPONSES:

38. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. The Parish Council have requested the application be determined at a planning committee as they have raised objections in terms of over development, lack of parking and no storage bins.

### APPLICANTS STATEMENT:

39. The site currently has planning permission for 5 townhouses (both 4 and 5 bedrooms) however our development is for 6 terraced houses (4 no. 3 bedrooms and 2 no. 2 bedrooms) over the same footprint. Our market research has shown that there will be a greater demand for the smaller, more affordable, starter homes. The smaller development will also compliment the surroundings more as the ridge line is lowered for the smaller houses and the parking requirements reduced as six “2/3 bedroom” houses will have fewer occupants than five “4/5 bedroom” houses.
40. They will be built using all locally employed trades’ people, by McCarrick Construction, an established living wage employer. McCarrick Construction currently employ 4 local apprentices (2015 intake) and plan to employ 2 additional apprentices / NEETS in conjunction with Durham Education Business Partnership when this development is approved. The properties will then be marketed using the government backed “Help to Buy” scheme in order to further stimulate the local housing market.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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41. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development; residential amenity, visual impact on surrounding area; and highway safety.

### Principle of development

42. It is noted that planning permission has been granted on this parcel of land as recently as 2013 and this permission is still extant and the development can be constructed. The committee report for the 2013 application stated the following in respect of the principle of development:
43. *The application site is located within the settlement limits for Durham City as identified by the City of Durham Local Plan 2004 proposals map. The site represents undeveloped land, which is located within a primarily residential area. Durham City is identified as an area where development will be directed to under local plan policy H2 ‘New Housing in Durham City’ provided the development would not be in conflict with other local plan policies or any other designations. It is considered that the proposed development would be in accordance with policy H2 of the City of Durham Local Plan 2004. The proposals conformity with other relevant local plan policy is discussed below.*
44. *National Planning Policy guidance contained with the NPPF applies a presumption in favour of securing sustainable development. Sustainable housing development is created by directing new housing to those areas best able to support it in terms of provision of services and facilities and good public transport links. The settlement in question is well served by facilities and services. The application site is located approximately 2 miles from the amenities of Durham City Centre. The area is also serviced by good public transport links.’*

45. There has been no major change in local or national policy in terms of directing housing development to sustainable locations since the previous application was approved in 2013. It is therefore considered that the above assessment is considered relevant in the determination of this planning application. The proposed development is considered to be acceptable in principle as the houses would be located within the settlement boundaries of Durham City and would be sustainably located in relation to good access to shops service, public facilities and public transport links. The proposal would be in accordance with policy H2 of the local plan and guidance within the NPPF.

#### Residential amenity

46. The main windows in the proposed development would be in the front and rear elevations. The front windows would look over the roundabout and there would be no loss of privacy to neighbouring dwellings in this direction. The windows in the rear of the proposed properties would overlook the proposed garden areas. The residential properties of Smithfield are located beyond the gardens however these properties are located at a much higher level than the proposed site which would ensure there would be no loss of privacy. There are no windows in the gable elevation of No. 67 Front Street and therefore it is not considered that this property would be adversely impacted in terms of loss of privacy. Each property would have a rear garden which would be split over two levels given the topography of the site. These gardens are considered useable and would be adequate amenity space for future residents of the properties. Bin stores have also been provided to the front of each property ensuring that refuse from the properties is adequately dealt with.

47. The proposed development would also be subject to Building Regulation Approval which would ensure that the proposed properties can be accessed adequately by all users. The proposal would therefore be in accordance with policies Q1 and Q2 of the local plan.

48. The previous planning application for 6no. linked properties was refused for two reasons. One of these reasons was that the layout and design of the development failed to provide adequate access to the rear gardens. The developer has overcome this issue by providing a communal area to the rear which allows access to rear of each property.

49. It is considered that the proposed development would not have an adverse impact on residential amenities of existing and future occupiers of neighbouring dwellings and the proposed properties. The development would therefore be in accordance with policy Q8 of the local plan.

50. To safeguard the residential amenity of the existing properties and the proposed properties in the future it is considered prudent to remove permitted development rights for extensions. A condition is recommended accordingly. Part 6 of the NPPF emphasises the need to deliver inclusive and mixed communities, therefore it is considered that in order to prevent overconcentration of houses in multiple occupation a condition is recommended which restricts the use of the properties to C3 use (dwelling house) only.

#### Visual impact on surrounding area

51. The site does not fall within a conservation area and it has no specific heritage significance, nor is it within the setting of any heritage asset. That being said, the site is within a prominent location being highly visible from the busy A167 and Rotary roundabout.

52. The surrounding area has a mixture of different house types with modern houses located on Smithfield, traditional Victorian terrace properties to the south of the site and modern apartment blocks located to the south west. The layout of the scheme would reflect the character and form of the terraced properties, and would appear as an extension to the existing terrace. The proposed dwellings are of two storey design and would be constructed from Ibstock Birtley Olde English and Drumquin brickwork, Marley Edgemere smooth grey roof tiles with white upvc windows and doors. Canopy features are proposed above the front doors of the properties. The proposed driveways would be constructed from tarmac with the entrance paths being Beamish Flat block paving.
53. The proposed properties are of a simple design which would relate to the existing terraced properties in the area. The proposed materials would be acceptable and would not appear out of keeping in the area. It is considered that the design, scale, materials and appearance of the proposed properties would be appropriate and acceptable in this location.
54. There are some trees located to the north of the site which are protected by Tree Preservation Orders. A tree constraints and landscape plan has been submitted with the application along with a retaining wall construction plan to show how the proposed development would not adversely impact upon the protected trees. On the previous application the Council's Landscape and Tree Officer originally had concerns regarding the impact the development may have on the protected trees. Following submission of further landscape information and the retaining wall construction plan the Landscape and Tree Officers have indicated that they cannot raise any objections to the scheme.
55. One of the protected trees does overhang the application. The details submitted with the application indicate that the proposed buildings would utilise sheet piling construction which will be carried out from within the site and protective tree fencing would be erected. The second reason for refusal on the previous application was that the proximity of the development would likely have a detrimental impact on the adjacent protected tree. The footprint of the 6no. linked properties has been reduced so it has the same footprint as the scheme which was approved for 5no. houses on the site. The proposed development would therefore not encroach any further towards the protected trees than the previously approved planning application. It is therefore considered that the proposed development would not have an adverse impact on the nearby protected trees.
56. Bin stores are proposed to be located to the front of the proposed properties. Details have been submitted indicating that the bin stores are to be constructed from timber fencing. Given the prominent location of the site it is considered that timber bin stores are unsuitable and would be visually unattractive within the street scene. In this location it would be more appropriate that the bin stores are constructed from the same materials as the properties. A condition is recommended for details of the bin stores to be submitted and agreed by Officers prior to works commencing on site.
57. Overall, it is considered that the proposed development would not have an adverse impact on the visual amenity of the surrounding area and would not compromise the protected trees adjacent to the site. The proposal would be in accordance with policies H13, H14 and E14 of the local plan.



## Highway issues

58. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety or have a significant effect on the amenity of occupiers of neighbouring property. The NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
59. The development would be served by via the existing adopted road on Front Street and would include extending the road further along the front of the site. 10 parking spaces are proposed as part of the development which meets the minimum requirements set out in the Councils parking standards. Durham County Highways Officers have not raised any objections to the proposed scheme. A suitable informative is recommended to ensure the construction of the new road is done to a suitable standard. A resident has previously raised concerns regarding parking and problems with refuse collection and also problems during the winter of the road incline. It is not considered that any of these issues are sufficient to warrant refusal of the application.
60. The proposed development would not create any adverse impacts in terms of highway safety. Sufficient parking provision is provided. The proposed development would be in accordance with policies T1 and T10 of the local plan.

## Other issues

61. Northumbrian Water has not raised any objections to the proposed development. A condition is requested to ensure that the disposal of surface and foul water from the site is adequately dealt with. A condition is recommended accordingly. It is not considered that the proposed development would have any adverse impacts in terms of drainage and would comply with policy U8a of the local plan.
62. The County Ecologist has been consulted on the proposed development and no objections have been raised. It is considered that the proposed development would not have an adverse impact on protected species or their habitats and would be in accordance with policy E16 of the local plan.
63. The Council's Sustainability Officer has provided some advice to the developer in terms of minimising energy from construction whilst also considering renewable/low carbon technologies. Building regulations will also require the proposed properties to achieve a satisfactory level of energy efficiency. It is considered that the proposed development would comply with policy U14 of the local plan.

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## **CONCLUSION**

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64. There is an extant planning permission on this site for residential development; therefore the principle of development has previously been established. The site is located within the settlement boundaries of Durham and the site is considered to be sustainably located within close walking distance to shops, services and public facilities, including public transport links. The proposal is therefore acceptable in principle and would meet the key aims of sustainable development in accordance with policy H2 of the City of Durham Local Plan and the NPPF.

65. Adequate levels of separation distance would be met with adjacent neighbouring properties and sufficient levels of useable garden areas would be provided for each property. A communal area is proposed to the rear of the gardens which will provide access to the rear of each property. The proposed development would not have an adverse impact on residential amenities of existing and future occupiers of neighbouring dwellings and the proposed properties. The development would therefore be in accordance with policy Q8 of the City of Durham Local Plan
66. The proposed development would be of a good quality design and would contribute to the housing mix in the area. The proposals would not appear out of keeping with the existing built form within the surrounding area. Trees protected by Tree Preservation Orders next to the site would not be compromised as a result of the proposed development. The proposed development would not encroach any closer to the protected tree than the previously approved scheme for 5no. properties. The proposal would be in accordance with policies H13, H14 and E14 of the City of Durham Local Plan.
67. Adequate levels of parking provision would be required. The proposed access to the site is acceptable via the existing adopted road of Front Street. Durham County Highway Officers have not raised any objections and it is considered that highways safety would not be compromised. The proposal would be in accordance with policies T1 and T10 of the City of Durham Local Plan.

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## RECOMMENDATION

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

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

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

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

Plan Ref No.	Description	Date Received
	Location Plan	23/12/2015
8350/02E	Proposed Site Layout	23/12/2015
2010/PA/01F	Tree Constraints and Landscape Proposals Plan	06/01/2016
8350/03C	Proposed Ground Floor and First Floor Plans	23/12/2015
8350/04C	Proposed Elevations and Roof Plan	23/12/2015
8350/101B	Proposed Retaining Wall Construction Schedule of Materials	23/12/2015 29/01/2016

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

3. 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.*

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Class(es) A, B, C, D and E of Part 1 of Schedule 2 of the said Order shall be carried out.

*Reason: In order that the Local planning authority may exercise further control in this locality in the interests of the residential amenity and to comply with Policy H13 of the City of Durham Local Plan.*

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking and/or re-enacting that Order with or without modification) no change of use of the hereby approved residential accommodation from use class C3 (dwelling houses) to use class C4 (houses in multiple occupation) shall be carried out.

*Reason: In order that the local planning authority may exercise further control to prevent overconcentration of houses in multiple occupation having regard to the need to deliver inclusive and mixed communities as identified in Part 6 of the National Planning Policy Framework.*

6. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2005.

*Reason: In the interests of the visual amenity of the area and to comply with policy E14 of the City of Durham Local Plan.*

7. Notwithstanding the details submitted with the application, no development shall take place until details of the proposed bin stores have been submitted to and agreed 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 visual amenity of the surrounding area and in accordance with Policy H13 of the City of Durham Local Plan 2004.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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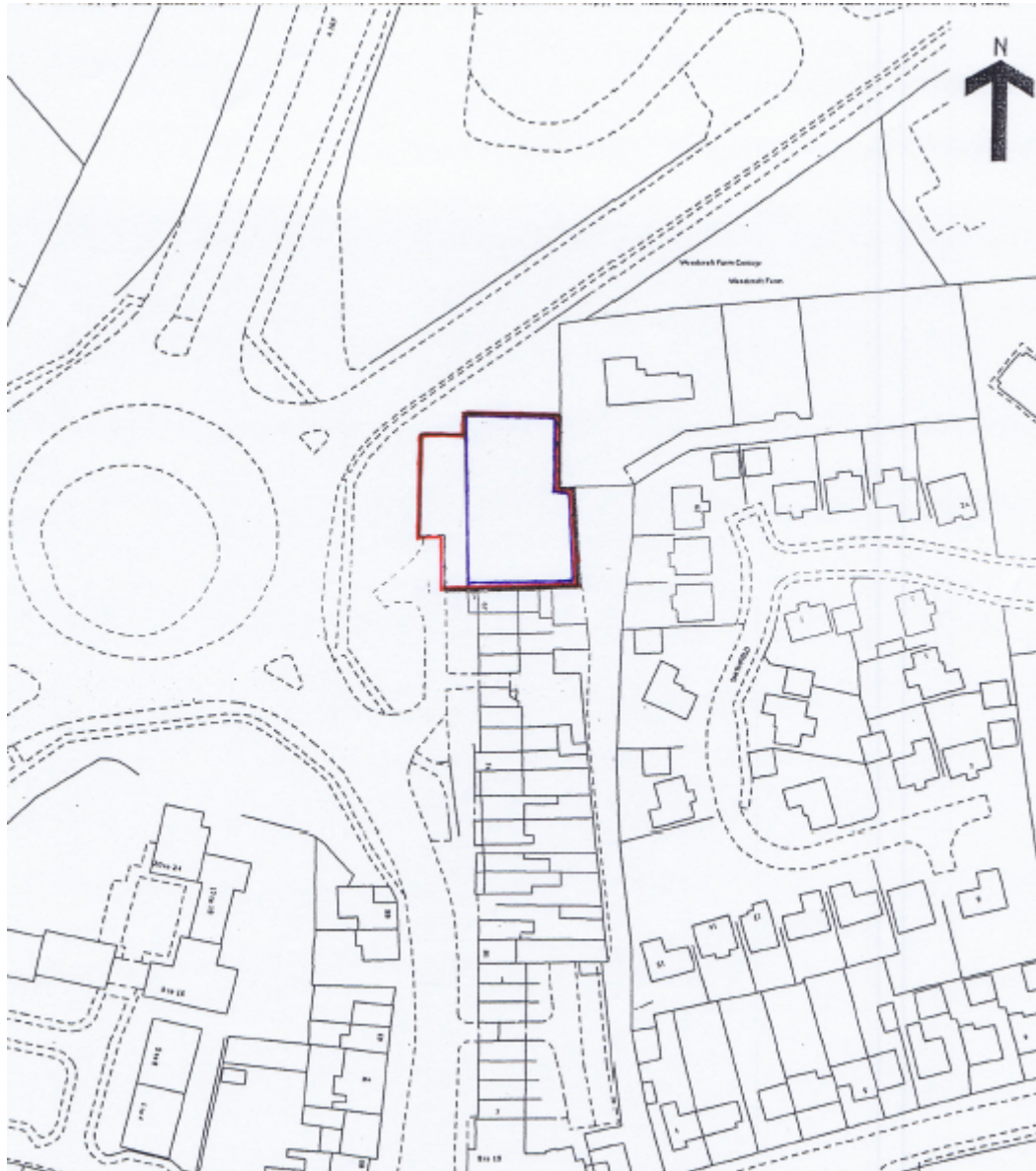
In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process.

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## **BACKGROUND PAPERS**

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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



**Planning Services**

**Proposed residential development  
of 6 No. linked dwelling houses at  
land to the north 67 Front Street,  
Pity Me, Durham, DH1 5DE Ref:  
DM/15/03945/FPA**

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**Date  
9<sup>th</sup> February 2016**