

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/03642/FPA
FULL APPLICATION DESCRIPTION:	Demolition of buildings and erection 18 no dwellings
NAME OF APPLICANT:	Mr Brian Robinson
ADDRESS:	Former St Anne's School, Kingways, Bishop Auckland Co Durham, DL14 7ER
ELECTORAL DIVISION:	Bishop Auckland Town
CASE OFFICER:	Steven Pilkington, Senior Planning Officer, 03000 263964, steven.pilkington@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises the land and building most commonly known as the former St Anne's School complex. The site is located within Bishop Auckland Conservation Area to the east of Bishop Auckland Town Centre. The unlisted stone building sits within a prominent position on the junction of South Church Road and Kingsway. The application site is bounded to the north by Bishops Bar and modern retirement housing. To the east lies the Bishop Auckland Cricket Club. Access to the club is immediately to the south beyond which lies the important complex of King James I School, containing grade II listed buildings. The site frontage is dominated by the revised modern highway network containing a signalised junction.
2. There is effectively two buildings on site the first, the historic National School built in C1850 is set back slightly from the public highway Kingsway and contains a small but poorly maintained landscape area. The second grouping face out onto South Church Road and are of mixed quality with the later additions being built in the late 19th early 20th century and considered of lesser importance.
3. All of the main buildings are constructed of stone under slate roofs and reflect the dominant characteristics of simplicity of form and lack of elaborate detailing often seen in church funded educational provision. The buildings are generally in a poor state of repair, with recent fire damage and removal of lead flashings leading to water ingress damaging the majority of internal fittings and a large section of roof

structure. Despite securing access doors the site has experienced antisocial behaviour with regular unauthorised entry into the buildings.

The Proposal

4. This application seeks planning permission for the demolition of the existing buildings on site and the erection of 18 no. units consisting of 4 x 1 bed apartments and 14 x 2 bed semi-detached dwellings. The scheme would be laid out on a similar footprint to the existing, comprising two blocks of development. The first would consist of 8 of the semi-detached dwellings, directly abutting South Church Road. The second would contain the remainder of the units set back slightly from the highway Kingsway providing a small amenity area. A large hardstanding area would be retained to the rear providing 23 parking spaces to serve the development.
5. The development would be two storey, although the scale of the original buildings would be replicated, providing a significant roof space. Gable projections are proposed to help break up the mass of the development and to replicate the simplistic style of the existing development. It is proposed that the existing stone work would be reused in the principal elevations, including stone mullion and cill detailing in windows.
6. This application is being reported to Planning Committee as it falls within the definition of a major development involving the erection of over 10 dwellings.

PLANNING HISTORY

7. Two planning applications to demolish the former school buildings were withdrawn in 2014 and 2015

PLANNING POLICY

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

11. *NPPF Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
12. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
13. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
14. *NPPF Part 10 – Climate Change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
15. *NPPF Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
16. *NPPF Part 12 – Conserving and enhancing the historic environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>
17. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance

Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to conserving and enhancing the historic environment; design; determining a planning application; flood risk; health and well-being; land stability; light pollution; natural environment; noise, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.(check this list)

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

Wear Valley District Local Plan 1997 (WVDLP)

18. *Policy GD1 - General Development Criteria* - Identifies that all new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
19. *Policy BE1 - Protection of Historic Heritage* - Seeks to conserve the historic heritage of the area by the maintenance, protection and enhancement of features and areas of particular historic, architectural or archaeological interest.
20. *Policy BE4 - Setting of a Listed Building* - Development which impacts upon the setting of a listed building and adversely affects its special architectural, historical or landscape character will not be allowed.
21. *Policy BE5 - Conservation Areas* – Sets out that the character of Conservation Areas will be protected from inappropriate development.
22. *Policy BE6 - New Development and Alterations* – Sets out that the Council will permit new development and alterations within Conservation Areas provided it preserves or enhances the character of the area in terms of scale, bulk, height, materials, colour, vertical and horizontal emphasis and design; and the proposal will use external building materials which are appropriate to the conservation area.
23. *Policy BE17 - Areas of Archaeological Interest* - Requires a pre-determination archaeological assessment where development affects areas of archaeological interest. Where possible the remains will be preserved in-situ.
24. *Policy H3 - Distribution of Development* - New development will be directed to those towns and villages best able to support it. Within the limits to development of towns and villages, as shown on the Proposals Map, development will be allowed provided it meets the criteria in Policy GD1 and conforms to the other policies of the plan.
25. *Policy H15 - Affordable Housing* - The Council will, where a relevant local need has been established, seek to negotiate with developers for the inclusion of an appropriate element of affordable housing.
26. *Policy H22 - Community Benefit* - On sites of 10 or more dwellings the local authority will seek to negotiate with developers a contribution, where appropriate, to

the provision and subsequent maintenance of related social, community and/or recreational facilities in the locality.

27. *Policy H24 - Residential Design Criteria* - New residential developments and/or redevelopments will be approved provided they accord with the design criteria set out in the local plan.
28. *Policy RL5 - Sport and Recreation Target* - For every 1 hectare of land developed residential purposes, at least 1300 square metres of land should directly be made available on or off-site for sporting or recreational use as part of the development or developers will be expected to make a contribution to the provision of such facilities.
29. *Policy T1 - General Policy, Highways* - All developments which generate additional traffic will be required to fulfil Policy GD1 and : provide adequate access to the developments; not exceed the capacity of the local road network; and be capable of access by public transport networks.

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/article/3272/Wear-Valley-District-Local-Plan>

EMERGING PLAN:

30. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan is being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

31. *Historic England* – Accept that the building in parts is in a poor state of repair and that bringing it back into a viable use consistent with its conservation may not be possible. Key to making this case though is a structural survey to establish whether the building is capable of repair and if it is, how much that repair would cost, compared to the market value of the building following conversion. It is recommended that the local planning authority consider whether the submitted information (which has not been reviewed as it is commercially confidential) meets the requirements of the NPPF, and that the substantial harm to the conservation area and the harm to the grade II listed buildings is given sufficient weight when making a balanced decision.

32. *Highway Authority* – Following amendments to the scheme, no objections are raised to the development subject to the laying out of car parking spaces and junction widening works before occupancy.
33. *Northumbrian Water* – Suggest a conditional approach to control the disposal of foul and surface water from the site.
34. *The Victorian Society* – Object to the development, advising that the loss of the building would cause substantial harm to the significance of Bishop Auckland Conservation Area and adjacent Grade II listed King James I School. The development would also deprive the town of a non-designated heritage asset.
35. *Bishop Auckland Town Council* – Has no objections provided any replacement buildings are of a similar style to the original, a strict time scale be determined for demolition and redevelopment and the new buildings utilises reclaimed materials. Concerns are raised over the density of the scheme which should be reduced.

INTERNAL CONSULTEE RESPONSES:

36. *Design and Conservation Section* – Advise that the loss of the buildings is regrettable as this would have a substantial impact on the character and appearance of the conservation area. Notwithstanding this the tests of the NPPF, in regard to such matters appear to have been met and as such no objection is raised to the proposal. The proposed re-development as amended is considered acceptable in terms of scale and design, subject the refining the finer design details by condition. It is advised that every effort should be made to ensure no gap site is created due to early demolition and a delay in redevelopment, which should be controlled by an appropriate condition.
37. *Archaeology Section* – Advise a conditional approach to record potential features within the buildings to be demolished.
38. *Environmental Health (Pollution Control)* – Raise concerns about the potential for noise generation from surrounding land uses to negatively impact on the amenity of future residents. However subject to the implementation of mitigation measures, including the installation of acoustic glazing any potential impact is likely to be reduced to an acceptable level, inside the properties. It is highlighted that this would place a requirement on future residents to keep their windows closed. Conditions to control the impacts of the demolition and construction phase of the development are also recommended.
39. *Ecology Section* – Advise that the development would result in the loss of an establish bat roost, however subject to implementing the proposed mitigation the development would not have a negative effect on the conservation status of the species and a European Protected Species Licence would likely be granted.
40. *Environmental Health (Land Contamination)* – Advise a conditional approach to deal with potential land contamination.

41. *Drainage and Costal Protection Section* – Advise that full details of the means of surface water drainage from the site should be controlled by condition ensuring the use of sustainable drainage techniques and limiting run off rates.
42. *Asset Management* – Have advised that the conclusions of the viability studies into the potential conversion of the existing buildings and proposed new development are generally sound.
43. *Affordable Housing Section* – Advise that there is a requirement to deliver a 10% affordable housing in the south of the county, equating to 2 units in this instance.
44. *Sustainability Section* – Advise that the site has good access to services and facilities, however the site is within Bishop Auckland Conservation Area and proposes the full demolition of a Non Designated Heritage Asset which may impact on the overall sustainability of the development. A conditional approach is recommended to secure embedded sustainability within the development.

PUBLIC RESPONSES:

45. The application has been publicised by way of press and site notices, and individual letters to neighbouring businesses and residents. One letter of support from Bishop Auckland Cricket Club has been received highlighting the poor condition of the building and antisocial behaviour which is undertaken.
46. Cllr Joy Allen advises that proposed development lies on major arterial route to and from Bishop Auckland which is now in a conservation area and its footprint forms a significant part of the local infrastructure. The applicant has made a strong business case that the redevelopment of the existing building is not economically viable and proposes to redevelop the site using reclaimed stone and create new buildings that would be sympathetic to original structure and elevations. It is also understood that that all other avenues have been explored and that no viable option has been identified.
47. Bishop Auckland Civic Society advise that the building falls within the Conservation Area and together with the adjacent King James School is of significance to the townscape and should not be removed. It is considered that the owners of significant buildings must be responsible for the maintenance of those buildings and not allow vandalism or consequent dereliction to be a convenient excuse for demolition.

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: <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NYBK5NGDFFQ00>

APPLICANTS STATEMENT:

48. The applicant acquired these buildings at auction, after they had been severely damaged by an arson attack. The main damage on site had therefore taken place before the applicant took responsibility from the site. His initial ideas did revolve around using the existing structure to convert. A great deal of work went into exploring this. To his great disappointment, the structure proved too far gone and it simply isn't going to be viable to save the existing buildings. That's also the view of the officers who have double checked our approach and thinking. The costs have also been peer reviewed. We simply can't convert the buildings.

49. The scheme before you has been worked around the advice from the Conservation Officers of the Council as well as the concerns of Environmental Health and Ecology and it provides a scheme to be proud of which will enhance the image of the town and surrounding area. If members support the application, we will still need to go through the process of a European Protected Species License to address the re-homing of bats that might live in the cracks in the building.
50. This is a scheme which will help clean up and restore a site that has been derelict for too many years and which is blight upon the town. If you support the officer recommendation and approve the scheme, you can look forward to a new development which helps the image of the town and which might be ready ahead of the 'son et lumiere' event. Left as it is, the site will only be a target for more vandalism and arson.

PLANNING CONSIDERATIONS AND ASSESSMENT

51. 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 principal planning issues relate to the principle of development, visual impact and impact on heritage assets, the amenity of adjacent land uses, ecology, highway safety, flooding and drainage and other issues.

The Principle of Development

52. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Wear Valley District Local Plan (WVDLP) remains a statutory component of the development plan and the starting point for determining applications as set out at paragraph 12 of the NPPF. However, the NPPF advises at paragraph 215 that local planning authorities (LPAs) should only afford existing Local Plans material weight insofar as they accord with the NPPF.
53. NPPF at Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/ time expired. Furthermore NPPF paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites.
54. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
 - approving development proposals that accord with the development plan without delay; and

- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - ii) Specific policies in this Framework indicate development should be restricted.

Assessment having regards to Development Plan Policies

55. The application site is located within the defined settlement limits of Bishop Auckland, where WVDLP policy H3 seeks to direct new housing, the proposal would therefore accord with WVDLP policy H3. However, policy H3 is considered to be a policy which restricts where new housing can be located and consistent with recent case law it is therefore considered a policy for the supply of housing. Given the age of the WVDLP and the housing supply figures that informed it, the housing supply policies within it do not reflect an up-to-date assessment of need. Having regards to the advice contained at paragraphs 49, 211 and 215 of the NPPF, WVDLP Policy 3 in relation to housing land supply must now be considered out-of-date and very limited weight should be afforded to it in relation to advice on housing supply.
56. Furthermore the NPPF states that housing applications should be considered in the context of a presumption in favour of sustainable development and that if the Council cannot demonstrate a five year housing land supply, housing policies in a Local Plan cannot be considered up to date. The housing trajectory associated with the withdrawn County Durham Plan (CDP) is no longer relevant and similarly the CDP Objectively Assessed Need (OAN - for housing) figure no longer exists. The Council therefore is unable to demonstrate a five year housing land supply based on an up-to-date OAN. Nonetheless it can demonstrate a robust and significant supply of housing land equivalent to over 5 years when measured against Office of National Statistics household projection statistics. Accordingly, it is considered that less weight should be afforded to the benefits of delivering new housing than would otherwise be the case if such a healthy land supply was not demonstrated. Nevertheless, the presumption in favour of sustainable development can only be displaced where a proposal would result in adverse impacts that would significantly and demonstrably outweigh the benefits, both in the form of a contribution to housing supply and any other benefits
57. Having regard to the above it is considered in this instance that the proposal should not be assessed against compliance with WVDLP Policy H3 but in the light of advice contained within the planning balance test of Paragraph 14 of the NPPF taking into account any other policies within the framework which indicate development should be restricted. The remaining policies within the WVDLP of relevance to the site are considered to relate to specific matters rather than influencing the principle of the development and are considered in turn below.

Locational Sustainability of the site

58. The County Durham Settlement Study is an evidence based document which categorises Bishop Auckland as a Tier 1 main town with a wide range of services,

facilities and employment opportunities. A development of 18 dwellings represents a small scale development commensurate with the role of Bishop Auckland in the settlement hierarchy of the County. The site is located on a regular bus route and a good range of services and amenities are accessible on foot. In regards to location sustainability the site is considered to perform well.

Viability

59. Local Plan Policy H15 sets out that where a relevant local need has been established the inclusion of an appropriate element of affordable housing will normally be required within a housing development. Such a requirement is replicated in the NPPF under paragraph 50, policy H15 of the WVDLP is therefore considered NPPF compliant and should be afforded significant weight in the decision making process. The Councils Strategic Housing Market Availability Assessment sets a target figure for the provision of 10% of dwellings to be provided as affordable housing within the South of Durham area including Bishop Auckland. Saved policy RL5 of the Local Plan sets out that for every 1 hectare of land developed for residential purposes, at least 1300 square metres of land should directly be made available on or off-site for sporting or recreational use as part of the development or developers will be expected to make a contribution to the provision of such facilities.
60. In this instance no affordable housing provision or off site recreational contributions are proposed as part of the scheme as the applicant has stated that should this be a requirement of the development it would be economically unviable. Paragraph 173 of the NPPF outlines the importance of viability as a material planning consideration, setting out that developments should not be subject to obligations which threaten their ability to be viably developed. To ensure viability, the costs of any requirements applied to development, such as affordable housing, should when taking account of the normal cost of development, still provide a competitive return to a developer to enable the development to be delivered. Paragraph 160 also advises that local planning authorities should consider the needs of businesses and any changes in circumstances, identifying and addressing barriers to investment and delivery of housing, including viability issues.
61. On a development of this nature it would be expected that a developer would require a profit in the region of 15-20% of the development value of the site. Such a profit is not considered to be excessive and aligns with relevant appeal decisions. A competitive profit for a developer is required to be factored into the consideration of the viability of a scheme and is effectively a cost to be taken out of the gross development value of the site. Advice has been sought on this matter from the Councils Assets Sections, who have considered in detail a submitted development appraisal for the redevelopment of the site, including baseline costs against industry standards and the likely income generated from the development. Having tested these assumptions and once the amount paid for the site and development costs are taken from expected sale values, only around an 8% developers profit could actually be achieved, excluding any affordable housing and recreational provision.
62. Having regard to the advice within the NPPF, the development profit is therefore not considered to constitute an adequate return and cannot deliver affordable housing provision or bear the cost of other planning obligations. Nevertheless, the developer remains keen to bring the development forward and the scheme does propose a

mix of dwellings, including 1 bed apartments and 2 bed semi-detached dwellings which would be expected to be priced at the lower end of the market for Bishop Auckland.

Impact on Heritage Assets and Visual Impact

63. WVDLP policies BE1, BE4, BE5 and BE6 seek to preserve the historic environment, particularly the character and appearance of Conservation Areas and the setting of Listed Buildings. These policies reflect the requirements of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which set out that special regard must be paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Special regard must also be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. These policies are considered broadly consistent with the NPPF which also seeks to conserve or enhance designated and non-designated heritage assets in a manner appropriate to their significance and putting them to viable uses consistent with their conservation. The NPPF does however recognise that some harm can be considered acceptable in the planning balance. Policies BE1, BE4 and BE5 of the WVDLP can therefore be afforded significant weight in the decision making process.
64. In identifying the significance of the heritage asset(s) it is recognised that Bishop Auckland is a large and complex conservation area, encompassing a history of occupation. The area is dominated by the presence of Auckland Castle, residence of the Bishops of Durham since the 12th century and the Bishop's Palace, but also includes the town that developed around it. The original school (National School) on the application site was constructed in c1850 and is typical of church funded schools of this period. Its architectural treatment is modest with sparing deployment of decoration and a simple form constructed during rapid industrialisation and population growth. Subsequent expansions of the school in the late-C19 and early-C20, and by the relocation of adjacent Grammar schools, created an educational quarter in this part of the town, a distinct character area identified within the Conservation Area Character Appraisal. As the first of these buildings to be constructed, the St Anne's complex forms an important part of the setting of these later schools (King James I First and Middle School), both of which are grade II listed. Historic England highlight that Bishop Auckland Conservation Area has been assessed as a conservation area at risk and is included in Historic England's Heritage at Risk Register.
65. Historic England, the statutory consultee for applications of this nature acknowledge that the loss of the school would cause substantial harm to the significance of the Conservation Area as well as harming the setting of the adjacent listed schools. It is also highlighted that the development would result in the loss of a non-designated heritage asset. However it is accepted that the building in parts is in a poor state of repair and that bringing it back into a viable use consistent with its conservation may not be possible. It is also recognised that a case could be made for demolition with the additional information that is available to the Council. As such, it requests that the local authority consider whether this information is robust, appropriately informed and meets the requirements of the NPPF, and that the substantial harm to the conservation area and the less than substantial harm to the grade II listed buildings is given sufficient weight when making their balanced decision. The

Victorian Society also a statutory consultee for development of this nature raise objections to the loss of the buildings and harm on the Conservation Area.

66. Paragraph 133 of the NPPF sets out that where a proposed development will lead to substantial harm to a heritage asset (in this case the Bishop Auckland Conservation Area), local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- the nature of the heritage asset prevents all reasonable uses of the site; and
 - no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
 - the harm or loss is outweighed by the benefit of bringing the site back into use.
67. Furthermore paragraph 134 of the NPPF sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset (in this case the Grade II Listed King James School), this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Paragraph 135 of the NPPF also sets out that the effect of an application on the significance of a non-designated heritage asset (the existing school buildings) should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
68. In appraising the proposal within this policy context, it is recognised there would be public benefits arising from the demolition and redevelopment of the site. These including the reduced likelihood of anti-social behaviour those associated with the removal of a building which is deteriorating rapidly and the beneficial viable reuse of a redundant site. Whilst these are likely to satisfy the tests of paragraphs 134 and 135, it is not considered that these would in isolation amount to the substantial public benefit required to outweigh the harm in the context of paragraph 133 of the NPPF. Nevertheless the applicant has also presented a robust case in the form of a viability appraisal setting out that the reuse of the building for either residential or commercial purposes would not be viable due to the substantial repair costs and the limited return on the capital investment. This appraisal has been reviewed by the Council's Asset Management Team which is in general agreement that the costs and assumptions are sound. The site has also been extensively marketed through an appropriate agent while grant funding and charitable or public ownership options have been explored but proved unsuccessful. Therefore within the confines of the confidential information provided to the local planning authority and the tests to which this has been subjected it is considered that sufficient justification for the demolition has been provided under the second tests of paragraph 133. Therefore subject to the overall redevelopment being acceptable the harm to the heritage assets would be outweighed by the benefit of bringing the site back into use.
69. In relation to the replacement development, it is proposed that the form and detailing of the original buildings would be replicated, to some degree, creating two blocks of development facing directly out onto Kingsway and South Church Road. The roofs would have a steep pitch, while gable features would break up the developments mass, again replicating the

existing. It is proposed that the stone in the existing buildings would be re-used on the principal elevations, including window features such as mullions and cills.

70. In assessing the impact of the re-development the Council's Design and Conservation Section consider it essential that the demolition should be followed by an appropriate development which enhances the character and appearance of the conservation area. In this respect the scheme is considered a safe and comfortable approach which has been well received locally. Following minor amendments to the fenestration detailing no objection is raised to the proposal. However in recognition that elements of the scheme have yet to be fully developed such as window/door and eaves detailing it is recommended that conditions requiring this detail are imposed on any consent to ensure that the quality of the development is secured. It is also pointed out that the benefits of the development would not be achieved if the existing building is lost and no development comes forward, creating a gap site. This is a requirement of paragraph 136 of the NPPF which sets out that Local Planning Authorities should not permit loss of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. Although the applicant has tested the viability of the scheme and it is considered that a development would likely come forward, it is considered necessary to attach conditions to any approval preventing demolition taking place until a schedule of development works including timings are submitted and approved.
71. In terms of Archaeology, Local Plan Policy BE17 and part 11 of the NPPF sets out the requirements for an appropriate programme of archaeological investigation, recording and publication to be made. In this respect it is recommended by the Council's Archaeology Section that if planning permission is granted then a suitable record of historic structures should be made prior to demolition.
72. In appraising the scheme and supporting information against the above policy context it is considered that the nature of the heritage asset prevents the reasonable re-use of the site in its current form and no viable use is likely to come forward. Conservation and grant funding options have been explored and have proved unsuccessful. The redevelopment of the site would address the deteriorating condition of the building and the replacement building is considered sympathetic and appropriate to this part of the conservation area, subject to controlling the final design. The proposal is therefore considered to conform to policies GDP1, BE1, BE4, BE5 and BE17 of the WVDLP and part 11 of the NPPF.

Residential Amenity of existing and future residents.

73. Policies GDP1 and H24 of the WVDLP requires that consideration be given to the potential impacts of development on the amenity experienced by surrounding land users, particularly residential dwellings and future users of the development. These policies are considered NPPF compliant and a core planning principle at paragraph 17 of the NPPF indicates that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Part 11 of the NPPF also requires developments to avoid noise giving rise to significant adverse impact on health and quality of life.
74. The nearest residential property to the development is no.45 South Church Road, part of a row terrace properties. This property would be located a minimum of 16m away with a main elevation of the proposed development directly facing this

building. This distance would be significantly lower than the minimum 21m separation distance advocated in the WVDLP as acceptable to prevent a loss of amenity arising. However the proposed development would be situated on a similar foot print of the school building which is also located approximately 16m away. This existing elevation also has a number of large windows which directly face the terrace of South Church Road giving a perception of overlooking. Although the current use is redundant and the proposal would represent a more intensive use, this is considered to be partly offset through bringing the site back into a productive use and removing antisocial behaviour associated with the building.

75. The remainder of the development site is surrounded by commercial properties, Bishop Auckland Cricket Club to the rear and Belvedere Social Club and the Beehive PH to the west. The proposed development would have a limited impact on these existing uses, although they do have the potential in themselves to cause nuisance to future residents, along with road traffic noise. A noise impact assessment has been submitted in support of the application that considers the impact of these existing uses on future residents. The report concludes that subject to appropriate mitigation measures, including the upgrading of the acoustic performance of the building, the amenity of future residents would not be adversely affected. The Council's Environmental Health Section advise that the findings and recommendations are sound and recommend a conditional approach to agreeing the finer detail of the noise mitigation. It is however highlighted that the indicated mitigation scheme relies on closed windows to avoid a significant impact which can be affected by the behaviour of future residents. Although this is the least favourable solution, in this instance this is considered acceptable given the constraints of the site and the heritage environment. It is recognised that guideline noise levels would likely be exceeded in external amenity areas associated with the development. However on balance given the town centre location of the site, the limited amenity areas proposed and as the noise associated with the commercial activities would be later in the evening, an adverse impact is not expected to arise.
76. Whilst the Environmental Health Section has provisions to deal with noise nuisance and other construction related disturbance, it is considered that some form of planning control is also necessary during the construction phase given the proximity of neighbouring residential properties and the extensive demolition works required. It is therefore recommended that a Demolition and Construction Management Plan detailing measures to minimise the impact of construction activities on the neighbouring properties is submitted.
77. Overall subject to the above conditions it is considered that the development would not give rise significant adverse impact on neighbouring land users and future residents complying with policies GDP1 and TM1 of the WVDLP and part 11 of the NPPF in this respect.

Ecology

78. Paragraph 11 of the NPPF requires Local Planning Authorities to take into account, protect and mitigate the effects of development on Biodiversity Interests.
79. Bats are protected under the Conservation of Habitats and Species Regulations 2010 (as amended) and consideration therefore need to be given to the issue of

disturbance and habitat loss. The submitted ecology reports confirm the presence of roosting bats within the building to be demolished. Although these are concluded to be occasional roosts rather than maternity roosts a Natural England European Protected Species License would be required for the demolition works to this building.

80. Under the requirements of the Conservation of Habitats & Species Regulations 2010 (as amended) it is a criminal 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 which is normally obtained after planning permission has been granted. When deciding whether to grant a licence to a person carrying out activity which would harm a European Protected Species (EPS) the regulation contain three "derogation tests" which must be applied by Natural England. The three tests are that: the activity to which the licence is required must be for imperative reasons of overriding public interest or for public health and safety; there must be no satisfactory alternative and favourable conservation status of the species must be obtained.
81. Notwithstanding the licensing regime, the Local Planning Authority (LPA) must discharge its duty under Regulation 9(3) and also be satisfied that these three tests are met and that Natural England is likely to grant a protected species licence when deciding whether to grant planning 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.
82. It is considered that the tests those of overriding public interest and there being no satisfactory alternative would be met by the proposed development. This would occur because of the deteriorating condition of the building and the health and safety/anti-social behaviour concerns around the site. Other alternatives including the re-use and retention of the buildings have been considered and have been concluded as not being viable solutions.
83. Based on the detailed survey work on the site, the submitted ecology report concludes that the building is used by roosting individual common pipistrelle bats and does not appear to be of significant conservation value given the species and lack of a maternity roost. The Council's Ecology Section consider the methodology and conclusions of the submitted report sound and subject to the mitigation proposed (including a method statement for preparation works and compensatory habitat features) a negative impact on the conservation status of the species would not arise. On this basis it is likely that a EPS licence be granted and the Council could satisfy its obligations under the Conservation of Habitats and Species Regulations 2010 (as amended) and planning requirements under part 11 of the NPPF.

Highway Safety

84. WVDLP Policies GD1 and TM1 require that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. These policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods while ensuring that a safe and suitable access

can be achieved and therefore can be given full weight in considering the application.

85. The site is currently accessed from the existing public highway on South Church Road. This existing access is proposed to be retained and widened to serve the 18no. units. Each unit would have a minimum of 1 parking space with 6no. visitor spaces within the development. Following amendments to the scheme, no objections are raised to the development from the Highway Authority subject to the laying out of car parking spaces and completing junction widening works before occupancy.
86. Overall the development is considered to be served by an appropriate level of car parking within the Town Centre and conforms to policies GD1 and T1 of the WVDLP and part 4 of the NPPF in this respect.

Flooding and Drainage

87. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should also ensure flood risk is not increased elsewhere.
88. The application site is located within flood zone 1 with the lowest probability of flooding. No drainage strategy has been submitted alongside the application but the Council's Drainage and Coastal Protection Section offer no objections to the proposal subject to a condition requiring the full detailing of the final system, with discharge limited to brownfield runoff rates. Waste water would connect to the existing main sewerage network, Northumbrian Water suggest a conditional approach to dealing with the surface and waste water.
89. The application has been screened by the Council's Contaminated Land Officer, who advises that given the nature of the proposal and historical uses a conditional approach to deal with potential land contamination would be appropriate.

Other Matters

90. Planning plays a key role in helping to reduce greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. The development would be expected to achieve a proportion of its energy supply from renewable resources, or through an equivalent level through energy effect measures. A condition requiring this is therefore necessary to comply with part 10 of the NPPF and policy GD1 of the WVDLP.

CONCLUSION

94. The acceptability of the application needs to be considered in the context of the presumption in favour of sustainable development planning balance contained within Paragraph 14 of the NPPF.

95. The development would result in the loss of a non-designated heritage asset which would have a substantial impact on the character and appearance of the Bishop Auckland Conservation Area and the setting of the adjacent listed King James I schools. However it is concluded that the nature of the heritage asset prevents the reasonable reuse of the site in its current form and no viable use is likely to come forward. Conservation and grant funding options have been explored and proven unsuccessful. The re-use of the site would address the deteriorating conditions of the buildings and the replacement development is considered sympathetic to the Character and Appearance of the Conservation Area.
96. The proposal mitigates the loss of ecological habitat subject to the proposed mitigation measures and the Council can satisfy its obligations under the Habitats & Species Regulations 2010 (as amended).
97. It is concluded that the development would not have a significant impact on the amenity of neighbouring residents that would justify refusal of the planning application. The development would be served by an appropriate means off access and sufficient car parking levels.
98. The site is concluded to be located in a sustainable location within Bishop Auckland a Tier 1 main town with a wide range of services, facilities and employment opportunities. Although no affordable housing is provided for viability reasons the scheme would boost housing supply at the lower end of the housing market.
99. Overall in assessing the development in planning balance test within the NPPF and taking into account other policies within the framework and all material considerations, the benefits of the scheme would outweigh the potential impacts and would represent sustainable development.

RECOMMENDATION

That the application DM/15/03642/FPA is **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:

Proposed Plans ref 1529, no. 3 rev A, received 21st April 2016
Elevation Plans and Details, ref 1529, no. 4, received 21st April 2016

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies GD1, BE1, BE3, BE5, BE6 and T1 of the Wear Valley District Local Plan.

3. Prior to the demolition of any part of the building(s) a schedule of works, including the timings, for demolition and the implementation of the new build development hereby approved, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved schedule of works, including agreed timings.

Reason:- To ensure to ensure the new development will proceed after demolition has occurred to safeguard the character and appearance of the Conservation Area in accordance with in accordance with Policy with saved policies GD1, BE1, BE5, BE6 and T1 of the Wear Valley District Local Plan and part 12 of the NPPF.

4. Notwithstanding any description of the materials in the application, no development other than demolition shall take place until samples or precise details of the materials to be used in the construction of any external of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Prior to the commencement of the building works a sample panel of the proposed stone and pointing to be used in the construction of the main walls of the building shall be erected on site for inspection. The written approval of the Local Planning Authority for the sample panel shall be received prior to the commencement of the building works and the sample panel shall be retained for reference on site throughout construction. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the visual amenity of the Conservation Area in accordance with policies GD1, BE1, BE4, BE5 and BE6 of the Wear Valley District Local Plan and part 12 of the NPPF.

5. Notwithstanding any description of the materials in the application, no development other than demolition shall take place until precise details of all new fenestration, glazing, heads and cills shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of the development. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of the visual amenity of the Conservation Area in accordance with policies GD1, BE1, BE4, BE5 and BE6 of the Wear Valley District Local Plan and part 12 of the NPPF.

6. No development shall take place unless in strict accordance with the Mitigation detailed in Section 6 of the updated Bat Survey Report (Naturally Wild, dated 13th June 2016)

Reason: To conserve protected species and their habitat in accordance with Paragraph 109 of the NPPF.

7. Notwithstanding the submitted information, prior to any demolition works commencing a Demolition and Construction Management Plan shall be submitted to and approved in writing with the Local Planning Authority. The scheme shall include:-

- i. The timing of demolition and construction works
- ii. Parking of vehicles of site operatives and visitors

- iii. Loading and unloading of plant and materials
- iv. Storage of plant and materials used in demolition and constructing the development
- v. Measures to control the emission of dust and dirt during demolition and construction
- vi. Details of the delivery arrangements of construction materials.
- vii. The storage location of demolition and construction materials on site.
- viii. Details of security fencing to be erected around the site

The development shall be carried out in accordance with the approved Demolition and Construction Management Plan thereafter.

Reason: - In the interests of highway safety and residential amenity, in accordance with policies T1 and GD1 of the Wear Valley District Local Plan and Part 11 of the National Planning Policy Framework.

8. The construction of the dwellings hereby approved shall not commence until a scheme to embed sustainability and minimise Carbon from construction and in-use emissions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the approved scheme and retained while the development is in existence.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Policy GD1 of the Wear Valley District Local Plan and part 10 of the National Planning Policy Framework.

9. The construction of the dwellings hereby approved shall not commence until a detailed landscaping scheme has been submitted to and approved in writing by the local planning authority. The landscape scheme shall include accurate plan detailing of the following:

- Details of planting species, sizes, layout, densities, numbers.
- Details of seeded or turf areas.
- The formation of any new boundary treatment also including access gates and pedestrian handrails.
- Details of any new hard standing area, including materials to be used.
- A time frame for the implementation of the landscaping scheme.

The landscaping scheme shall be implemented in accordance with the approved details thereafter.

Reason: In the interests of the visual amenity of the Conservation Area in accordance with policies GD1, EN4, BE1, BE5, BE6 and TM1 of the Wear Valley District Local Plan and part 12 of the NPPF.

10. No demolition shall commence until a programme of building recording work has been undertaken in accordance with a Written Scheme of Investigation (WSI) which shall be first submitted to and approved in writing by the Local Planning Authority. The WSI should include details of the following:
 - i; Methodologies for a Level 3 EH-style building record.
 - ii; A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the recording work is undertaken and completed in accordance with the approved strategy.

iii; Monitoring arrangements, including the notification in writing to the Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

iv; A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The recording work shall thereafter be carried out in accordance with the approved details and timings. Within 6 months of the site work commencing a final copy of any reporting, publication or archiving required as part of the Written Scheme of Investigation shall be submitted to the Local Planning Authority.

Reason: In order to record the historic features of the building in accordance with Wear Valley Local Plan policy BE17 and part 12 of the NPPF

11. Notwithstanding the submitted information, no development shall commence other than demolition until a detailed scheme for the disposal of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall utilise sustainable drainage techniques to limit surface water discharge rates to brownfield run off rates.

Reason: In the interest of the adequate disposal of foul and surface water in accordance parts 10 and 11 of the NPPF.

12. The construction of the dwellings hereby approved shall not commence until a scheme of noise mitigation measures, based on the conclusions of Acoustic report AC101250-1R2 compiled by REC Ltd, has been submitted to and approved in writing by the Local Planning Authority. The aim of the scheme shall be to protect future occupiers from road traffic noise/Entertainment noise and should ensure the following noise levels are achieved.

Traffic noise

35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)

30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)

45 dB LAmax in bedrooms during the night-time

55dB LAeq 16hr in outdoor living areas

Entertainment noise

Noise rating curve 20 in any habitable room

The development thereafter shall be carried out in accordance with the approved mitigation scheme

Reason in the interest of the residential amenity of future residents in accordance with part 11 of the NPPF and policy GDP1 of the Wear Valley District Local Plan.

13. Prior to the occupation of the first dwelling hereby approved, the highway widening works and proposed car parking set out on the Proposed Plans ref 1529, no. 3 rev A, received 21st April 2016 shall be constructed, laid out and brought into use.

Reason in the interests of highway safety in accordance with policies GD1 and T1 of the Wear Valley District Local Plan and part 4 of the NPPF.

14. The construction of the dwellings hereby approved shall not commence until a scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following, unless the Local Planning Authority is satisfied that the site is suitable for the proposed use and dispenses of any such requirements, in writing:

Pre-Commencement

- (a) A Phase 1 Preliminary Risk Assessment (Desk Top Study) shall be carried out by competent person(s), to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.
- (b) If the Phase 1 identifies the potential for contamination, a Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.
- (c) If the Phase 2 identifies any unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out by competent person(s). No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.

Completion

- (d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

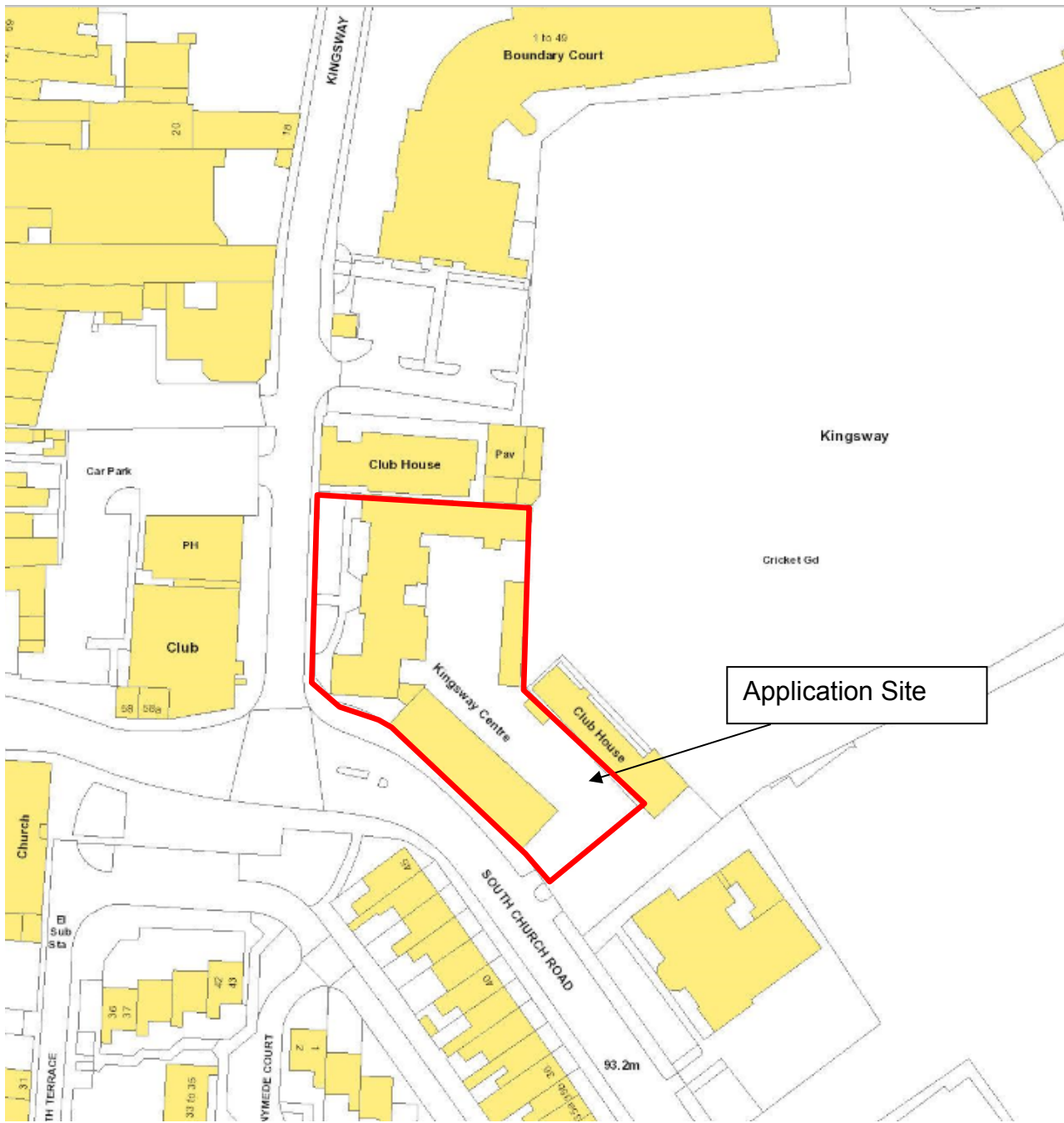
Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 11.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (*Statement in accordance with Article 35(2) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.*)

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance notes.
- Wear Valley District Local Plan 1997
- Strategic Housing Market Availability Assessment 2015
- Statutory, internal and public consultation responses.



Planning Services

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Comments

Date June 2016

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