

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/15/02129/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing building and proposed new build for student accommodation
NAME OF APPLICANT:	Mr Christopher John Alderson
ADDRESS:	3 Fram Well House, Diamond Terrace, Durham, DH1 5SU
ELECTORAL DIVISION:	Elvet and Gilesgate Chris Baxter Senior Planning Officer
CASE OFFICER:	03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of Fram Well House and the associated land which is located near Diamond Terrace in Durham City. The site is bounded by residential terraced properties on Diamond Terrace to the east and a belt of trees to the west, beyond which is the East Coast Mainline (railway line). The site is accessed from the A691 Framwelgate Peth to the south. To the north of the site are open fields. The site itself has the Fram Well House building located centrally with parking to the south and north. The site lies within the Durham City Conservation Area and is also within proximity to the Durham Castle and Cathedral World Heritage Site. The northern section of the application site also falls within the Durham City Green Belt.

The Proposal

2. Planning permission is sought for the erection of 7no. student accommodation blocks containing in total 69no. bed spaces, along with living/dining/kitchen and bathroom facilities. The buildings would be a mix of two and three storey heights and would be linked with stairwells and all would be of flat roof construction. A new access is proposed which would incorporate the rear of Diamond Terrace leading to a parking area and turning space.
3. This application is referred to the Planning Committee as it constitutes a major planning application.

PLANNING HISTORY

4. There is no planning history on this site relevant to the determination of this application.

PLANNING POLICY

NATIONAL POLICY:

5. 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.
6. 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'.
7. The following elements are considered relevant to this proposal;
8. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
9. *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.
10. *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.
11. *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.
12. *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.
13. *NPPF Part 9 – Protecting Green Belt Land.* The Government attaches great importance to Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

14. *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.
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, 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.
16. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at:

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

LOCAL PLAN POLICY:

City of Durham Local Plan

17. *Policy E1 (Durham City Green Belt)* states that within the Green Belt the construction of new buildings is inappropriate and will not be permitted unless it is for purposes relating to agriculture or forestry; essential sport and recreation facilities or cemeteries; replacement of an existing dwelling, re-use or conversion of an existing building; and limited extensions to existing dwellings.
18. *Policy E3 (World Heritage Site) Protection* seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
19. *Policy E6 (Durham City Centre Conservation Area)* states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
20. *Policy E10 (Area of High Landscape Value)* states that the Council will protect the landscape value in respect of development by resisting development which would have an unacceptable adverse impact upon landscape quality or appearance of the area of high landscape value; and requiring that development respects the character of its landscape setting in terms of its siting, design and scale.
21. *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.

22. *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.
23. *Policy E18 (Sites of Nature Conservation Importance)* seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
24. *Policy E22 (Conservation Areas)* seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
25. *Policy H7 (City Centre Housing)* seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
26. *Policy H13 (Residential Areas – Impact upon Character and Amenity)* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
27. *Policy H16 (Residential institutions and Student Halls of Residence)* provides for purpose-built accommodation provided that they are well related to local facilities and are not likely to impact adversely on adjacent development or lead to community imbalance.
28. *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.
29. *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.
30. *Policy T20 (Cycle facilities)* seeks to encourage appropriately located, secure parking provision for cyclists
31. *Policy T21 (Safeguarding the Needs of Walkers)* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.

32. 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.
33. Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
34. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
35. 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.
36. Policy Q15 (Art in Design) states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area
37. *Policy U5 (Pollution Prevention)* states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
38. *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.
39. Policy U11 (Development on Contaminated Land) sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
40. Policy U13 (Development on Unstable Land) will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
41. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY

The County Durham Plan

42. 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 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.

43. The Council have in place an Interim Policy on Student Accommodation. Part B of the Council's Interim Policy on Student Accommodation relates specifically to purpose built student accommodation (PBSA). Part B of the Interim Policy states that new PBSA's should demonstrate need; that a development would not have a negative impact on retail, employment, leisure, tourism or housing uses; and requires consultation with the relevant education provider. Part B further states that proposals for PBSA development will not be permitted unless the development is readily accessible to an existing university or college; the design and layout would be appropriate in relation to neighbouring uses; the internal design, layout and standard of accommodation is of appropriate standard; the impacts from occupants of the development will not have unacceptable impact upon the amenity of surrounding residents; the quantity of cycle and car parking is in line with Council Parking and Accessibility Guidelines; and the applicant has shown that the security of the building is considered.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

44. *County Highways Authority* recommends that the application is refused on highway safety and amenity grounds.
45. *County Drainage Team* has not raised any objections to the scheme.
46. *Durham University* have objected to the proposed development.
47. *Historic England* has indicated that the application should be determined in accordance with national and local policy guidance.
48. *Natural England* has not raised any objections.
49. *Northumbrian Water* has not raised any objections however has recommended that a condition is imposed for details of surface water disposal from the site to be submitted.
50. *Police Architectural Liaison* has not submitted any objections to the proposed development however it is considered that the development will have negative impacts on existing residents as evidenced by the numerous objections.
51. *The Coal Authority* has confirmed that the site falls within the defined Development High Risk Area.
52. *Network Rail* has made comments in relation to drainage, boundary fencing, soundproofing, lighting and landscaping.
53. *Environment Agency* has not objected to the scheme.

INTERNAL CONSULTEE RESPONSES:

54. *Sustainable Travel* has confirmed that a travel plan is not required for this development.
55. *Sustainability Officer* has not raised any objections to the scheme.
56. *Environmental Management (Contamination)* has not raised any objections subject to a condition requiring the submission of a contamination site investigation report.
57. *Environmental Management (Noise)* has not raised any objections.
58. *Ecologist* cannot support the scheme as up to date bat surveys have not been submitted with the application.
59. *Design and Conservation* has indicated that the proposals would lead to less than substantial harm to the Conservation Area.
60. *Landscape Team* has raised concerns that the proposal would contradict planning policy.
61. *Tree Officer* has not raised any objections to the proposed scheme.

PUBLIC RESPONSES:

62. The application has been advertised on site and in the local press. Neighbouring residents were also notified individually of the proposed development. The scheme was amended in September 2016 and further re-consultation was undertaken on the revised scheme. In total 75 letters of representation have been received including letters from local residents, Sidegate and Elvet Residents Associations, Crossgate Community Partnership, Nevilles Cross Community Association, Durham City Neighbourhood Planning Forum, the World Heritage Site Co-ordinator, City of Durham Trust, Campaign to Protect Rural England, Councillor Ormerod and Roberta Blackman-Woods MP.
63. Concerns have been raised with regards to the adverse impact the proposal has on the surrounding area. These include harmful impacts on the World Heritage Site, the Conservation Area and encroachment into the Green Belt, resulting in loss of countryside. There are concerns that the proposal would impact on the railway line, drainage and land stability.
64. Objections have been raised in regards to the impacts the proposed development would have on the properties and residents of Diamond Terrace. Concerns relate to the loss of residential amenity including loss of privacy, overbearing issues and noise and light pollution. Residents have also indicated that they currently have a right of access over the vehicle access to the rear of Diamond Terrace.
65. It has been indicated that the proposal does not accord with planning policy including the Interim Policy on Student Accommodation. It is considered that the proposal would lead to unacceptable levels of student concentration in the area and that a precedent has already been set with the refusal of the student accommodation proposal at Kingslodge. It is not considered that there is a need for student accommodation in this location. It is also considered that the proposed site is unsustainable as there is no access to shops, services, colleges etc.

66. The proposed vehicle access from Framwellgate Peth is considered dangerous, as the proposal would result in an increase in traffic creating a highway safety issue. Concerns have been raised that the proposed development would adversely impact on protected species.
67. It has been raised that there are discrepancies within the application as information on the proposed plans contradicts information on the application form and in statements submitted with the application. It has also been claimed that the applicant does not own the entire application site.

APPLICANTS STATEMENT:

68. Full planning permission is sought for the above, and it is understood the Council's last position was to refuse the application for the following four reasons:
1. Encroachment into the Green Belt, contrary to Policy E1 of the City of Durham Local Plan;
 2. An increase in student concentration contrary to Policies H9 and H16 of the City of Durham Local Plan;
 3. The design, scale and massing would not preserve or enhance the Durham City Conservation Area, contrary to Policies E6 and E22 of the City of Durham Local Plan; and
 4. The detrimental impact on residential amenity, contrary to Policy Q8 of the City of Durham Local Plan.
69. In response the scheme has been significantly amended, and we contest that these revisions have resolved the above concerns in a manner consistent with the NPPF and Durham's development plan, or the benefits of development are material considerations that would warrant a departure from the plan.
70. Consequently, we respectfully request that the local planning authority resolves to grant planning permission for the proposed development, subject to any conditions deemed appropriate.

PLANNING CONSIDERATIONS AND ASSESSMENT

71. 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 principle of development; impact upon the character, appearance and setting of Conservation Area, World Heritage Site, Green Belt and surrounding area; impact on residential amenity; highway safety; and ecology.

Principle of development

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

73. Policy C3 of the local plan relates to development by the University of Durham, the University are not the applicant on this proposal and therefore this policy is not strictly relevant to this particular application. The proposal is not considered contrary to Policy H16 on sustainability grounds as the site is well located in terms of local services and within easy walking distance of bus routes, local shops and University buildings. Amenity and character/appearance impacts are considered later in this report.
74. The NPPF emphasises the need to ensure mixed and inclusive communities mentioned at paragraph 50 and encourages that development establishes a strong sense of place and sustains an appropriate mix of uses as detailed in paragraph 58.
75. Part B of the Council's Interim Policy on Student Accommodation relates specifically to purpose built student accommodation (PBSA). The proposal is for a PBSA and therefore needs to be assessed against the criteria in this policy. Part B of the Interim Policy states that new proposals will be required to demonstrate need for additional student accommodation; that the proposal would not have a significant negative impact on other uses; and that consultation has been undertaken with the relevant education provider.
76. The existing building on site is currently occupied by Durham Christian Partnership. Whilst it is acknowledged that the proposed development would, in part, be the development of brownfield land, it would result in the loss of an existing business. This would therefore not accord with the Interim Policy as it would have a negative impact on an employment use. It is also noted that no evidence has been provided which shows consultation with an education provider in particular Durham University. Nevertheless, the University have been consulted by Officers as part of the planning process and have commented on the scheme indicating that they do not support the application by stating *'while the changes in the growth forecasts for the University suggest that there may be a need for additional student accommodation over the next ten year period – the emerging Masterplan for the University does not indicate that additional student accommodation would be best placed in this location i.e. some distance from University facilities and the City Centre.'* It is considered that there is not a need for student accommodation in this location. The proposal would result in the loss of an existing employment use and would not maintain a mixed or balance community.

Impact upon the character, appearance and setting of Conservation Area, World Heritage Site, Green Belt and surrounding area

77. Part of the application site is located within the Durham City Green Belt. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open.
78. Local plan policy E1 (Green Belt) clearly states that the construction of new buildings within the Green Belt other than those listed below amount to inappropriate development and will not be permitted except in very special circumstances. Those forms of development which are not inappropriate are agriculture or forestry; outdoor sport and recreation; limited infilling; replacement of an existing building; re-use or conversion of an existing building; or limited extensions to existing dwellings. The proposed development of a PBSA does not fall within any of these exceptions and therefore the proposals amounts to inappropriate development in the green belt.
79. The NPPF also has specific policies in relation to Green Belt development which states that inappropriate development is by definition harmful and should not be approved except in very special circumstances.

Very special circumstances will not exist unless the potential harm to the greenbelt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It will therefore be necessary to balance the harm to the greenbelt by reason of inappropriateness, and any other identified harm, against any benefits of the proposal to reach a conclusion on whether the harm is clearly outweighed.

80. There are currently no buildings located on the section of Green Belt land which is in the site. Over half of the development is proposed to be located within the Green Belt area. Clearly the proposed development would have a significant impact on the openness of the Green Belt.
81. It is noted that the proposed development has been revised from the original submission and the scale and massing of the proposal has been reduced which is a step in the right direction. The contemporary design approach of the proposed scheme does not however does not necessarily respond to the landscape and the local vernacular. It can be considered that the proposed development does not preserve or enhance the character, appearance or setting of the Durham City Conservation Area, in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Principal Design and Conservation Officer has stated that the proposals would lead to a less than substantial harm to the conservation area. Paragraph 134 of the NPPF states that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.'* It is not considered that the proposal for a PBSA brings any significant public benefit which would outweigh the less than substantial harm created by the proposed development.
82. The World Heritage Site Co-ordinator has objected to the scheme on the basis that the proposals have a negative impact on the World Heritage Site (WHS) and its setting and for the harm that would be caused by the substantial and large scale repetitive blocks to the quality of the WHS setting and the sites Outstanding Universal Value.

Impact on residential amenity

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

A management plan has not been submitted with the planning application. Whilst a suitably worded planning condition would ensure that a well-defined management plan could be provided and agreed at a later date. The application does not provide any confidence to local residents at this stage that the proposed development would be managed in an appropriate manner ensuring no harm to existing levels of residential amenity. From the high levels of objections received from local residents, it is evident that there is a substantial concern regarding impacts on residential amenity. It is noted however planning conditions can be imposed requiring the submission of a suitable management plan to be submitted and agreed, therefore it is not considered that a refusal reason on residential amenity could be justified in this instance.

86. Policy Q8 considers that in order to provide adequate levels of amenity and in order to maintain privacy, 21 metres should be achieved between main windows serving habitable rooms. The original scheme did not achieve these separation distances between the proposed development and the properties on Diamond Terrace. The excessive height of the original scheme also created overbearing concerns in relation to the Diamond Terrace properties. The amended scheme shows a reduction in the height of the proposed buildings and a relocation of the buildings taking them further away from Diamond Terrace. It is considered that the separation distance is now acceptable and would provide ensure adequate levels of privacy. The reduction in the height and massing of the proposed buildings would also ensure that there would be no adverse impacts created in terms of overbearing impacts.

Highway safety

87. The Council's Highways Manager has raised concerns relating to access and parking; and has recommended that the application is refused on highway safety and amenity grounds.
88. The Highways Manager has indicated that vehicular access to Diamond Terrace is not good for this site with tight radii and limited width. The access as proposed is likely to result in turning vehicles waiting on the highway, with consequent risk of hazard to all highway users. The application site sits within the City's Controlled Parking Zone and the Council's parking standards do not require any parking for student accommodation.
89. Without parking control there would be the potential for increased and obstructive parking which in theory could cause problems on Framwellgate Peth if vehicles experienced restricted entry flow. No indication has been given how this would be addressed. There are 7 residential properties with existing parking demand in Diamond Terrace. A group of 5 parking spaces have been indicated outside the red line boundary in an area of sloping unmade land and in front of existing dilapidated garden sheds (Three indicated on the layout drawing but only 2 exist on site). It is possible that existing residential demand could increase above this level of provision indicated. In addition current signage indicates the existing land near the entrance is private parking and approximately 6 vehicles associated with the existing establishment at Mainstreet USA park on a daily basis. There is no clarification within the application about the existing residential and business parking demand and how this is to be accommodated. Without any suitable alternative it would be expected that a minimum of 9 parking spaces be made available to meet potential existing residential demand and indication of how business use will be catered for.

90. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
91. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and where this is likely to be an interference with an EPS must consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
92. A bat survey of the site has been submitted with the application which records that the building on site is a known bat roost and further recommends that three emergence/re-entry bat surveys are carried out in support of the demolition of the building. These further surveys have not been submitted with the planning application and subsequently the Council Ecologist has indicated that planning permission should not be granted. Without evidence that the demolition of the existing building would not adversely impact on protected species or their habitats, Officers are unable to discharge the relevant statutory duties and the proposal is considered to be contrary to part 11 of the NPPF and policy E16 of the local plan.

Other issues

93. The Council's Drainage Team, Environmental Management Officers, Coal Authority, Network Rail, Northumbrian Water and the Environment Agency have not raised any objections to the proposed scheme however conditions are recommended for further information to be submitted and agreed prior to any development works.

CONCLUSION

94. The proposed development would result in the loss of an existing employment use to be replaced by student accommodation which would not maintain a mixed or balanced community within the immediate locality. Durham University have also stated that there is not a need for student accommodation in this location. The proposal is therefore considered unacceptable in principle and would be contrary to parts of section 6 and 7 of the NPPF, policies H13 and H16 of the local plan and criteria detailed in the Council's Interim Policy on Student Accommodation.
95. It is acknowledged that the proposed scheme has been reduced in height, massing and scale from the original submission however it is still considered that the development would have less than substantial harm on the conservation area and surrounding area. The World Heritage Site Co-ordinator maintains that the proposal would have a negative impact on the WHS. It is not considered that a PBSA scheme would not provide significant public benefits to overcome these concerns and the proposal is therefore considered to be contrary to section 12 of the NPPF, policies E3, E6, E10 and E22 of the local plan and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

96. There have been significant objections from local residents raising concerns on impacts on residential amenity. The absence of a student management plan with the application would not have helped with the trepidation of local residents. It is noted however planning conditions can be imposed requiring the submission of a suitable management plan to be submitted and agreed, therefore it is not considered that a refusal reason on residential amenity could be justified in this instance. The scheme has also been amended so it now accords with standard separation distances and therefore no loss of privacy or overbearing impacts would be created.
97. The Council's Highways Manager has objected to the scheme and raised concerns with regards to the proposed access and lack of parking provision for the residential properties and businesses in the immediate locality. It is therefore considered that the proposed development would have an adverse impact on highway safety and the proposal would be contrary to policies T1, T10 and T21 of the local plan.
98. A bat survey has been submitted with the application however this report recommends further surveys to be undertaken of the existing building on the site as it is a known bat roost. These additional surveys have not been submitted with the application and the County Ecologist therefore raises objections to the proposed scheme. Without evidence that the demolition of the existing building would not adversely impact on protected species or their habitats, the proposal is considered to be contrary to part 11 of the NPPF and policy E16 of the local plan.
99. Over half of the proposed development would be located within the Durham City Green Belt. National and local planning policy clearly states that new development in Green Belts is inappropriate. The proposed development is not considered to be an exception and the proposed buildings would adversely impact on the openness of the Green Belt. The proposed development is unacceptable in principle and would be contrary to policy E1 of the local plan and part 9 of the NPPF.

RECOMMENDATION

That Members are minded to **REFUSE** the application for the following reasons;

1. The proposed development would result in the loss of an existing employment use and would not maintain a mixed or balanced community within the immediate locality contrary to parts of section 6 and 7 of the National Planning Policy Framework, policies H13 and H16 of the City of Durham Local Plan and criteria detailed in the Council's Interim Policy on Student Accommodation.
2. The proposed development is contrary to Policy E1 of the City of Durham Local Plan and Part 9 of the National Planning Policy Framework as the proposal is for inappropriate development in the Durham City Green Belt and there are no very special circumstances which clearly outweigh the harm by reason of inappropriateness and other harm.
3. The proposed layout and form of the development would be unacceptable and would not preserve or enhance the setting, character or appearance of the Durham City Conservation Area and it would have a negative impact on the setting of the World Heritage Site contrary to section 12 of the National Planning Policy Framework and policies E3, E6, E10 and E22 of the City of Durham Local Plan.
4. Due to poor vehicular access and insufficient parking provision the proposal would compromise highway safety and amenity contrary to policies T1, T10 and T21 of the City of Durham Local Plan.

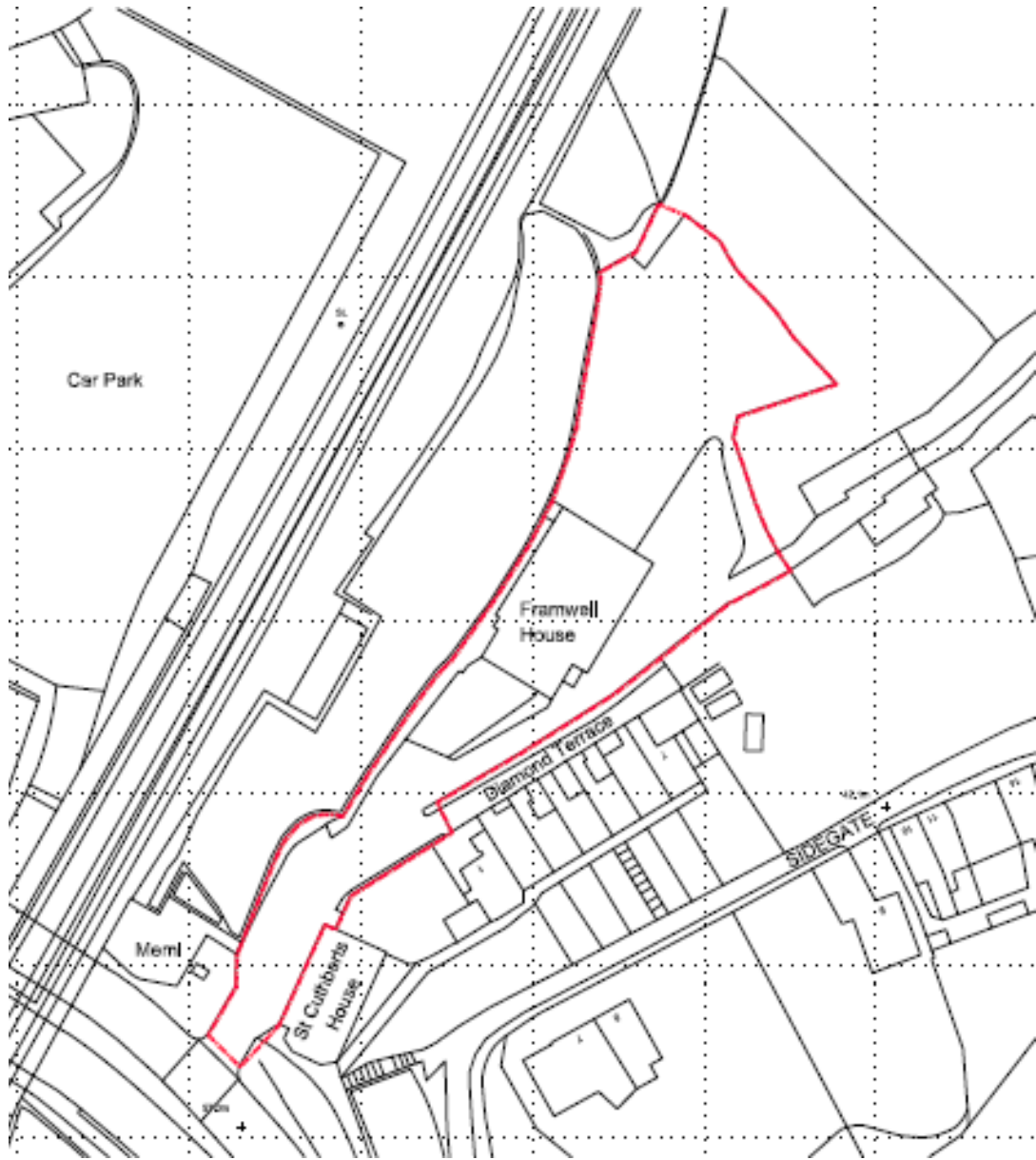
5. Insufficient evidence has been submitted to ensure that protected species or their habitats would not be adversely affected by the proposed development and the proposal is contrary to part 11 of the National Planning Policy Framework and policy E16 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision 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) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

BACKGROUND PAPERS

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



Planning Services

Demolition of existing building and proposed new build for student accommodation at 3 Fram Well House, Diamond Terrace, Durham, DH1 5SU Ref: DM/15/02129/FPA

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Date
13th December 2016