

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/03751/FPA
FULL APPLICATION DESCRIPTION:	Demolition of former Durham Johnston School Whinney Hill and the erection of 75no. dwellings with associated infrastructure, landscaping and car parking
NAME OF APPLICANT:	Persimmons
ADDRESS:	Durham Johnston Comprehensive School Whinney Hill, Durham, DH1 3BG
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of the redundant Durham Johnston Comprehensive School known locally as the Whinney Hill Lower Site which is located on Whinney Hill in Durham. The site is an irregular rectangular shape split over various levels and measures approximately 2.6 hectares. The site is made up of a combination of school buildings of various sizes and heights, hard surfacing and playing courts, and open grassed areas.
2. The east of the site is bounded by a designated Ancient Woodland and the land drops significantly to the Durham City Rugby Club premises. To the north set beyond tree coverage is a mix of student accommodation and employment uses. To the south is a mix of open land and woodland. Immediately west of the site is a mix of residential accommodation and car parking for Durham Prison. The site is located within the Durham City Conservation Area. Within the wider location context the site is located approximately 800 metres due east of Durham Cathedral.

The Proposal

3. Full planning permission is sought for the erection of 75no. C3 dwellings. A mix of different house types are proposed including 16no. two bed apartments, 53no. three bed dwellings and 6no. four bedroom dwellings. Three apartment blocks are proposed along with detached, semi-detached and linked properties, some of which are designed as split level houses to conform to the difference in levels across the site. The existing accesses from Whinney Hill are to be retained however a one way system will be introduced.

4. The application is reported to the Planning Committee as it constitutes a major development.

PLANNING HISTORY

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

PLANNING POLICY

NATIONAL POLICY:

6. 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.
7. 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’.
8. The following elements are considered relevant to this proposal;
9. *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.
10. *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.
11. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority’s to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
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.* 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.
14. *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.

15. *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

16. *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.
17. *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.
18. *Policy E14 (Trees and Hedgerows)* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
19. *Policy E15 (Provision of New Trees and Hedgerows)* states that the Council will encourage tree and hedgerow planting.
20. *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.
21. *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.

22. *Policy H2 (New Housing in Durham City)* states that new housing development comprising: windfall development of previously developed land: and conversions will be permitted within the settlement boundary of Durham City.
23. *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.
24. *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.
25. *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.
26. *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
27. *Policy R2 (Provision of Open Space – New Residential Development)* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
28. *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.
29. *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.
30. *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.

31. 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.
32. 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.
33. *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.
34. *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.
35. 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.
36. 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.
37. Policy U14 (Energy Conservation – General) states that the energy efficient materials and construction techniques will be encouraged.

EMERGING POLICY:

County Durham Plan

38. 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.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

39. *Environment Agency* has not raised any objections to the proposed development.
40. *Police Architectural Liaison Officer* has not raised any objections and has indicated that the crime risk assessment for this proposed development is low.
41. *Northumbrian Water* have not raised any objection but has requested that a condition is imposed for the drainage scheme to be in line with submitted flood risk assessment and drainage strategy.
42. *Durham County Highways Authority* has not raised any significant objections to the proposed scheme.
43. *The Coal Authority* has not raised any objections subject to further investigation works being undertaken.
44. *Drainage Section* have requested the submission of additional information in relation to the flood risk assessment and drainage strategy.

INTERNAL CONSULTEE RESPONSES:

45. *Education Section* have indicated that the proposed development could produce an additional 24 primary pupils and 10 secondary pupils. There are sufficient secondary school places available but no primary school places available. Consequently additional teaching accommodation will be required and a contribution of £328,920 is required.
46. *Public Rights of Way Section* have not raised any objections but has indicated that the proposal should contribute to the enhancement of surrounding public rights of ways.
47. *Tree Section* has not raised any objections to the proposed scheme.
48. *Landscape Section* has not raised any objections to the proposed scheme.
49. *Design and Conservation* has not raised any substantial objections to the proposed development. It is indicated that the demolition of the school building, a non-designated heritage asset, is assessed as substantial harm and the applicant would need to demonstrate substantial public benefits.
50. *Environmental Management (Noise)* has raised any major objections however the demolition and construction phase may result in a statutory nuisance being created.
51. *Sustainability Section* has not raised any objections to the proposed development.
52. *Environmental Management (Contamination)* has not raised any objections but has indicated that a further phase 3 remediation strategy report shall be submitted prior to development commencing.

53. *Archaeology Section* has not raised any objections to the scheme subject to conditions for archaeological investigation works and recording.

54. *Ecology Section* has not raised any objections to the proposed scheme.

55. *Spatial Planning Policy Section* has not raised any objections to the proposed scheme.

56. *Housing Development and Delivery Team* has confirmed that the proposed delivery of 10 affordable rent units and 5 discount market sales units would be supported.

PUBLIC RESPONSES:

57. The application has been advertised in the local press and a site notice was posted. Neighbouring residents have also been notified in writing. At the time of this report being published 2 letters of representation have been received on the application from the Whinney Hill Community Group (WHCG) and the City of Durham Trust.

58. The City of Durham Trust broadly accept the proposals as the application closely follows a design brief prepared in 2007. It is noted that the accommodated should be restricted to C3 properties. It is also considered that the impact on the Whinney Hill road would be significant to justify passing places.

59. The Whinney Hill Community Group broadly supports the proposed development however the following comments are raised:

- Neighbour letters were not received by all the residents of Whinney Hill;
- Concur with comments from the Police regarding issue of parking and the apartment blocks being more suitable for older residents;
- The education contribution is excessive and the criteria for Durham Johnston School admittance should be restored to the historic local catchment area;
- The proposed properties should be retained as C3 dwellings;
- Contribution to play space and open space should be directed towards the Hollow Drift area;
- Lack of bungalows on the scheme;
- External materials of the proposed properties should be traditional and reflect the area;
- Reference to the points raised in the development brief created for the site;
- Concerns over the heights of the apartment blocks;
- Clarification on the type and price range of the affordable housing;
- What procedures would be in place to minimise disruption during construction;
- Retention of trees is important;
- Funding should be made available for tree planting, resurfacing of public paths and additional play equipment;
- Section 106 contributions should be allocated to Whinney Hill;
- Concerns that percentage of affordable homes for developments has been reduced from 30% to 20%;
- Robust traffic and parking arrangements should be put in place.

APPLICANTS STATEMENT:

60. This proposed development offers the opportunity to create a new sustainable desirable residential development, bringing back to use a derelict, Brownfield site within Durham City and the Elvet conservation area.

The application site is located within an existing residential area of Durham City, its proximity to the city centre ensures that the site is highly sustainable in relation to local amenity with a wide variety of services, facilities, open space, recreational facilities, and local schools within close proximity to the development. Furthermore, the proximity to bus routes and the train station provide a high level of sustainable transport options for future residents.

The proposal for 75 dwellings, including 20 apartments, provides an excellent range and choice of dwellings to satisfy current and future housing needs of Durham City. With a selection of 2-4 bed properties of varying sizes and types proposed the development also seeks provides type and size of dwelling which are currently under provided within the housing market.

The proposed development incorporates the contemporary design approach currently being implemented on the Persimmon Homes development at the Former Police Head Quarters in Aykley Heads. The design is innovative for the area including design features not typical of the surrounding area such as Balconies and Juliet Balconies on select dwellings with contemporary glass or aluminum guarding on the balconies; Red/Buff/Grey contrasting brickwork and Feature Panels of Render or Cladding. The resultant development will provide an attractive, high quality contemporary residential development which will complement the residential and historical context of its setting.

The application is supported by a full suite of supporting reports, assessment and drawing which have met all the requirements of internal Council and Statutory Consultees such that there are no outstanding objections from any of these bodies.

The application is also supported by an 'Addendum Heritage Statement' in which the justification on the loss of the school buildings has been discussed at length as well as identifies and concludes with an array of public benefits that would result from the redevelopment of the scheme.

Finally, the impacts of the development have been mitigated via a planning gain package which includes off site play, public art contribution, education contributions and a policy compliant onsite Affordable Housing provision.

In conclusion it is considered that the proposed development of the site would result in the re use and redevelopment of a Brownfield, vacant and derelict site within a sustainable city centre location and provide a mix of dwellings which are currently under provided within the housing market.

Therefore in accordance with paragraph 14 of the National Planning Policy Framework the application should benefit from the presumption in favour of sustainable development and approve development proposals that accord with the development plan without delay;

PLANNING CONSIDERATIONS AND ASSESSMENT

61. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to

the principle of residential development of the site; 5 year land supply; residential amenity; visual impacts on heritage assets and conservation area; highway and access issues; affordable housing and section 106 contributions; and impacts on surrounding area

Principle of residential development

62. The site is located within a predominantly residential area with residential properties located to the south, east and west of the site. The site is previously developed and is located within a sustainable location being close to shops, service and public facilities. Public transport is also within close walking distance. It is therefore considered that the principle of development is acceptable and the proposed development would be in accordance with the sustainability principle of the NPPF.

63. Concerns have been raised by WHCG that the proposed properties may revert to C4 houses in multiple occupation (HMO). The proposed development indicates that the properties are for C3 dwelling houses. The Article 4 Direction is in place in the Durham City area which covers the development site and ensures that properties cannot be converted to C4 HMO use without first applying for planning permission.

5 year land supply

64. Durham County Council is unable to demonstrate a 5 year supply of deliverable housing land as Objectively Assessed Need (OAN) for housing is yet to be fully tested. The council is to consult on preferred options for the County Durham Plan shortly and this may give rise to a change in this stance.

65. The current position therefore is that as of August 2016, Durham County Council has a deliverable supply of 9,527 dwellings. The Issues and Options Local Plan presented for consultation three scenarios for future housing growth that were subject to consultation and will be tested as part of establishing the OAN for County Durham. The supply of housing can be considered against these three scenarios as follows:

Scenario	Dwellings per annum	Years supply against
Population Growth Short Term	1,533	4.65
Population Growth Combination	1,629	4.31
Population Growth Long Term	1,717	4.04

66. As the Council is currently unable to demonstrate a 5-year housing land supply against full Objectively Assessed Needs (OAN) for housing, paragraph 49 of the NPPF is relevant and policies for the supply of housing should not be considered up-to-date. As such, the weight to be applied to the residential framework is reduced. In this circumstance paragraph 14 is engaged and this sets out an overarching position that where the development plan policies are out-of-date (or not up-to-date in respect of paragraph 49), planning permission should be granted unless, via a two limbed approach: firstly, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or, secondly specific policies in the NPPF indicate development should be restricted.

67. In the context of this proposal this certainly renders Saved Policy H2 'out of date'. The implication of this is that limited weight should be attributed to this policy and the proposal should be determined in accordance with the two limbed test set out in Paragraph 14 of NPPF.
68. The main purpose of the Framework is to achieve sustainable development. This includes the provision of housing, the need to move towards a low carbon economy and the need to protect and enhance the natural environment. In providing housing a key theme of the NPPF is to seek to boost significantly the supply of housing and expects LPAs to help deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (including meeting the needs of people who wish to build their own homes) (Paragraphs 47 – 55 of NPPF).
69. It has already been established that the Council does not have a five year supply of housing land. In the context of paragraph 14, any adverse impacts of the proposal must therefore significantly and demonstrably outweigh the benefits if it is to be refused on the basis of the sustainability of its location.

Residential amenity

70. The separation distances between the proposed properties and the surrounding dwellings all exceed 21 metres which ensures that adequate levels of privacy would be maintained for existing occupiers. Given the separation distances, it is not considered that any overbearing or overshadowing issues would be created on adjacent properties. The relationship and separation distances between the proposed properties are all considered acceptable and would provide sufficient levels of amenity for future occupiers of the properties.
71. The Environmental Health Officer has not raised any significant objections to the proposed scheme however concerns are raised over potential disturbance during demolition and construction phase. The Environmental Health Officer has suggested that a condition is imposed for a Demolition and Construction Management Plan to be submitted which will provide details of mitigation to ensure that the demolition and construction phase of the development would not adversely impact neighbouring residents. A condition is recommended accordingly. The Environmental Health Officer dealing with contamination has not raised any objections but has requested that a further contamination report is submitted prior to works commencing on site. This issue can be adequately covered by a planning condition and a condition is subsequently recommended. Given the close proximity of existing residential properties it is considered appropriate to impose a condition restricting hours of construction and deliveries to the site. A condition is recommended accordingly.
72. Overall, it is considered that the proposed development would not have an adverse impact on the residential amenities of existing and future occupiers of neighbouring properties and the proposed dwellings. The proposal would be in accordance with policies H13 and Q8 of the local plan.

Visual impacts on heritage assets and conservation area

73. The application site lies within the Durham City Conservation Area. The historic significance of Whinney Hill is as part of the City's planned expansion in the first half of the 20th century. The area's buildings are characteristic of this period and primarily social housing. The architectural style of the school buildings is typical of public architecture of the 1930s and are well ordered and considered responding

to the site and topography. Overall they are considered to make a positive contribution to the Conservation Area. The former Whinney Hill school and site can be viewed from several places across Durham City both within and external to the conservation area. Many of these views are obscured by trees and with most complete views of the buildings are from height and in long distance views where they are seen within the backdrop to the WHS. However within these views the existing buildings sit comfortably and confidently within the setting of the inner bowl. Within the immediate area vegetation to the principal and most significant elevation are limited to within the site.

74. The Principal Design and Conservation Officer acknowledges that the overall design and layout remains defined and constrained by the geographical and environmental constraints of the site; the road layout which is defined by the topography of the site and the retention required to facilitate the road access and parking requirements; and the viability of the site in terms of the number of deliverable housing units which impacts on density and car parking.
75. The aspiration for “unique and high design quality design” is tempered by physical constraint and fiscal viability and it is acknowledged that the developer has endeavoured within the context of their own portfolio to deliver a higher quality product. Should the application be approved, this “quality” should be assured by the imposition of suitable conditions on the applicant with regards to material quality. Conditions are recommended accordingly.
76. By using a contemporary vernacular house type and the proposed traditional palette of material the applicant has taken into consideration the nature of existing build form, introducing a “newer” character area within a visually contained site. This is comparable with the imposition of former social housing in the Whinney Hill area within the context of the wider city. As such, the applicant has endeavoured to pay special attention to the desirability of preserving and enhancing the character or appearance of the Conservation Area in this respect.
77. It is acknowledged that the existing school building is classed as a non-designated heritage asset and the Principal Design and Conservation Officer has indicated that the loss of this building is assessed as substantial harm in the context of the NPPF and such the applicant would need to demonstrate substantial public benefits that outweigh that harm or loss. A heritage assessment has been submitted by the developer which specifically comments on the loss of the school building and provides evidence that the scheme brings public benefits which outweigh the loss of the non-designated heritage asset. The public benefits derived from the proposed scheme described by the developer include:
 - Delivery of high quality housing in a highly sustainable city location;
 - Rebalancing the local community by introducing C3 dwellings into an area which is heavily occupied with student properties;
 - Unviable to develop site without the loss of the school building;
 - Delivery of affordable housing;
 - Improvements pedestrian connections including the upgrade of public rights of way;
 - A vacant brownfield site being brought back into use;
 - Enhancement and addition of green spaces with further planting and trees;
 - Financial contributions to public art and education;
 - Economic benefits of the development with job creation, local employment and a Targeted Recruitment Training Programme.

78. It is noted that some of the public benefits listed above ie. the financial contributions to open space, public art, education; and the provision of affordable housing are elements of a development scheme which would be required irrespective of the need to demolish a non-designated heritage. These elements, in themselves, are not sufficient to justify the loss of the school building. It is noted however that information has been submitted which indicates that the proposed scheme would not be viable unless the school building is removed. The Whinney Hill area can be considered to be an area highly concentrated with C4 HMO properties which has created an unbalanced community. The proposed development of C3 dwellings would provide a rebalance of the community. Taking all these issues into consideration it is considered that there is sufficient public benefit from the scheme which would outweigh the harm of the loss of the non-designated heritage asset.

79. Given the above comments it is considered that the proposed development would preserve the character and setting of the Durham City Conservation Area and would not have a detrimental impact on the appearance of the surrounding area or the World Heritage Site. Overall the proposal is considered to be in accordance with policies E6 and E22 of the local plan and in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Highway and access issues

80. The development is proposing to use the existing accesses into the site but introducing a one way system so all vehicles enter and exit the housing estate the same way. The Highways Manager is satisfied with this proposal and has indicated that a traffic regulation order is required to secure the one way system and ensure the erection of illuminated signing. A traffic regulation order would also be required to include the highway within the Controlled Parking Zone and to restrict the highway running through the site to a 20mph road. A condition is recommended accordingly to ensure these traffic regulation orders are put in place.

81. The proposed layout and parking for the development has been fully assessed by the Highways Manager and no objections are raised. It is considered that the proposed development would not have an adverse impact on highway safety. It is noted that the site sits within a dense residential area with restricted access. It is therefore considered that the submission of a construction management plan should be submitted and approved prior to works commencing on site. A condition is recommended accordingly.

82. Given the above it is considered that the proposed development would not have an adverse impact on highway safety and the proposal would be in accordance with policies T1 and T10 of the City of Durham Local Plan.

Affordable housing and section 106 contributions

83. The NPPF states that, in order to ensure a wide choice of high-quality homes, Local Planning Authorities should “plan for a mix of housing”, “identify the size, type and tenure of housing that is required in particular locations”, and “where affordable housing is needed, set policies for meeting this need on site”. A development of this scheme usually expects 20% of the housing to be affordable. The applicant has indicated that 20% affordable is to be provided with 10 affordable rent units and 5 discount market sale units. The Housing Development Manager has indicated that the affordable housing proposed is acceptable. The

provision of the affordable housing will be secured through a section 106 legal agreement.

84. Financial contributions are also being offered towards other local functions and facilities within the vicinity of the site. A contribution of £75,000 at a calculation of £1000 per dwelling, is being offered towards green infrastructure within the locality. The Council also encourage the provision of artistic elements in the design and layout of new development and the applicant has committed to a contribution of 1% of build costs in this regard. A contribution of £328,920 is to be made towards education for additional primary school accommodation in the locality. A contribution of £50,000 is also to be made for the upgrade of public rights of way in the area. These contributions will be secured through a Section 106 legal agreement.
85. The above contributions would help to support and improve facilities within the surrounding locality for the benefit of occupiers of the additional properties and also existing residents of the local community. The contributions would be in accordance with policies R1, R2 and Q15 of the local plan.

Impacts on surrounding area

86. The Environment Agency, Northumbrian Water and the Council's Drainage Officer have been consulted on the application and no major objections have been raised. Northumbrian Water and the Council's Drainage Officer has requested that a condition is imposed for final details of the surface and foul water drainage to be confirmed prior to works commencing on site. A condition is recommended accordingly. Given no objections have been raised by Environment Agency, Northumbrian Water and the Council's Drainage Officer it is considered that the proposed development would not adversely compromise the surrounding area in terms of drainage or flooding issues.
87. 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.
88. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also 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.
89. An Ecology Survey of the site has been submitted with the application. This survey concludes that there are some bat roosts present within the school building and mitigation is proposed. The submitted survey has been analysed by the County Ecologist. The County Ecologist has confirmed that there are no objections to the findings of the survey. Subsequently it is not considered that the proposed development would have an adverse impact on protected species or their habitats and would be in accordance with part 11 of the NPPF. Notwithstanding the above, a condition will be required which would ensure care is taken during construction in accordance with the recommendations in the

submitted habitat survey. Subject to this mitigation, it is considered that the proposals would be in accordance with part 11 of the NPPF.

90. Overall it is considered that the proposed development would not have an adverse impact on drainage and flooding in and around the site; and protected species or habitats would not be compromised. The proposal would be in accordance with part 11 of the NPPF.

Other issues

91. The County Archaeologist has been consulted on the proposed scheme and no objections have been raised subject to the imposition of a condition for further investigation works to be undertaken prior to commencement. A condition is recommended accordingly.
92. The Coal Authority have been consulted on the application and they have confirmed that the site lies within a High Risk Development Area. Further investigation works are required prior to commencement of development which can be secured through a planning condition. A condition is recommended accordingly.

CONCLUSION

93. The proposed development is located in a predominantly residential area and is considered to be in a sustainable location within close walking distance to shops, services and public facilities. It is therefore considered that the proposal can be considered sustainable development and would be in accordance with guidance contained within the NPPF.
94. Adequate separation distances are achieved between proposed properties and existing neighbouring dwellings, ensuring that there would be no loss of privacy or outlook and no adverse overbearing or overshadowing concerns would be created. Overall, the proposed development would not have an adverse impact on the residential amenities of existing and future occupiers of the proposed properties and existing neighbouring dwellings. The development is considered to be in accordance with policies H13 and Q8 of City of Durham Local Plan.
95. It is considered that the sufficient evidence has been submitted in order to justify the loss of the existing school buildings. The proposed properties are considered to be acceptable in design terms and would preserve the character and appearance of the Durham City Conservation Area and would therefore comply with policies E6 and E22 of the local plan.
96. The Highways Authority has confirmed that the proposed access and parking arrangements would be acceptable. It is not considered that the proposed development would compromise highway safety. The proposal therefore accords with policies T1 and T10 of the City of Durham Local Plan.
97. The development would provide a mix of affordable housing which would contribute to the local housing mix. The local community would also benefit from the development arising from developer contributions that would enhance green infrastructure in the locality; contribute towards public art, contribute to educational facilities, and improve pedestrian links near to the site.

98. The Environment Agency, Northumbrian Water and the Council's Drainage Officer have been consulted and they have not raised any objections to the proposed development. It is not considered that the proposal would create any flooding or drainage issues in the near locality.

99. Detailed ecology surveys have been submitted with the application and these surveys have found that no protected species would be adversely affected by the proposals, and ecology officers concur with this conclusion. The development would be in accordance with part 11 of the NPPF.

RECOMMENDATION

That Members are minded to **APPROVE** the application subject to the completion of a Section 106 Legal Agreement to secure 20% affordable housing; a financial contribution of £75,000 towards green infrastructure in the locality; and a financial contribution of 1% of build costs towards public art in the locality; a financial contribution of £328,920 towards education; a financial contribution of £50,000 towards the upgrade and improvements of highway footpaths and street lighting; and subject to the following conditions;

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

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

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

Plan Ref No.	Description	Date Received
WH-001 J	Proposed Development Layout	13/02/2017
CH-WD01	Craghead – Plans & Elevations	23/11/2016
HU-WD01 A	Huntclif – Plans & Elevations	13/02/2017
WH-003	Indicative Landscape Proposal	13/02/2017
WH-SE01 F	Street Elevations	13/02/2017
F3-WD02 A	Apartments Elevations	22/02/2017
F3-WD01	Apartments Floor Plans	22/02/2017
CSSP-WD01	Cragside – Plans & Elevations	23/11/2016
RF-WD01 P	Rufford – Plans & Elevations	23/11/2016
SE-WD01	Sandsend – Plans & Elevations	23/11/2016
TW-WD01	Eldridge – Plans & Elevations	23/11/2016
WY-WD01	Wycliffe – Plans & Elevations	23/11/2016
RK-WD01 K	Runswick – Plans & Elevations	23/11/2016
GF-WD01 L	Greyfriars – Plans & Elevations	23/11/2016
SGD-01 B	Single/Double Garages – Plans & Elevations	23/11/2016
	Site Location Plan	23/11/2016

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

3. No development shall take place until a detailed scheme including site investigations to confirm remedial works to treat areas of shallow mine workings has been submitted to and approved in writing by the local planning authority. Any identified

remedial works shall be undertaken prior to commencement of development and the development shall be carried out in accordance with the approved details.

Reason: To ensure the stability of the land and to comply with policy U13 of the City of Durham Local Plan.

4. Before the development is first brought into use traffic regulation orders to include the provision of a one way system, erection of illuminated signage and a 20mph speed limit control shall be made within the development site. Thereafter the scheme shall be implemented in accordance with the approved details.

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

5. No development shall take place until full highway engineering details of the proposed estate roads have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details.

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

6. No development shall take place until a detailed scheme for improvements to surrounding public rights of way has been submitted to and approved in writing. The approved scheme shall be implemented prior to the occupation of the development.

Reason: In the interests of public amenity and to comply with policy T21 of the City of Durham Local Plan.

7. The development hereby permitted shall not commence until a pre-commencement scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections a, b, or c are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 3 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

Pre-Commencement

- (a) A Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

Completion

(b) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.

(c) 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. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes 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 in accordance with NPPF Part 11.

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

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

9. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Bat Survey prepared by Durham County Council dated 13th July 2016 and Phase 1 & Bat Building Survey dated September 2016.

Reason: To conserve protected species and their habitat in accordance with the objectives of part 11 of the NPPF.

10. No development shall take place until the applicant has secured the implementation of the programme of archaeological work in accordance with a written scheme of investigation, which has been approved in writing by the local planning authority as follows:

- i. Methodologies for a Historic England-style building record prior to any conversion works or stripping out of fixtures and fittings.
- ii. A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the approved strategy.
- iii. Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
- iv. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details.

Reason: To comply with para 135 & 141 of the NPPF because the site is of archaeological interest.

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

Reason: To comply with para. 141 of the NPPF which ensures information gathered becomes publicly accessible.

12. No development hereby permitted shall commence until details of the external walling and roofing materials have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policy H13 of the City of Durham Local Plan.

13. No development hereby permitted shall commence until details of all means of enclosure have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policy H13 of the City of Durham Local Plan.

14. No development hereby permitted shall commence until details of all hard standing areas have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policy H13 of the City of Durham Local Plan.

15. No development shall take place until a demolition and construction management plan, which deals with environmental impacts (noise, vibration, dust and light) has been submitted to and approved in writing by the local planning authority. The construction of the development shall be carried out in accordance with the approved details.

Reason: In the interests of residential amenity having regards to policy H13 of the City of Durham Local Plan.

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

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

17. No development works (including demolition) shall be undertaken outside the hours of 8am and 6pm Monday to Friday and 8am and 1pm on a Saturday with no works to take place on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to policy H13 of the City of Durham Local Plan.

18. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policies E15 and H13 of the City of Durham Local Plan.

19. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area and to comply with policies E1, E2, E2A, and H13 of the City of Durham Local Plan.

20. No development shall take place until a detailed scheme for management and maintenance of the SUDS in perpetuity has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

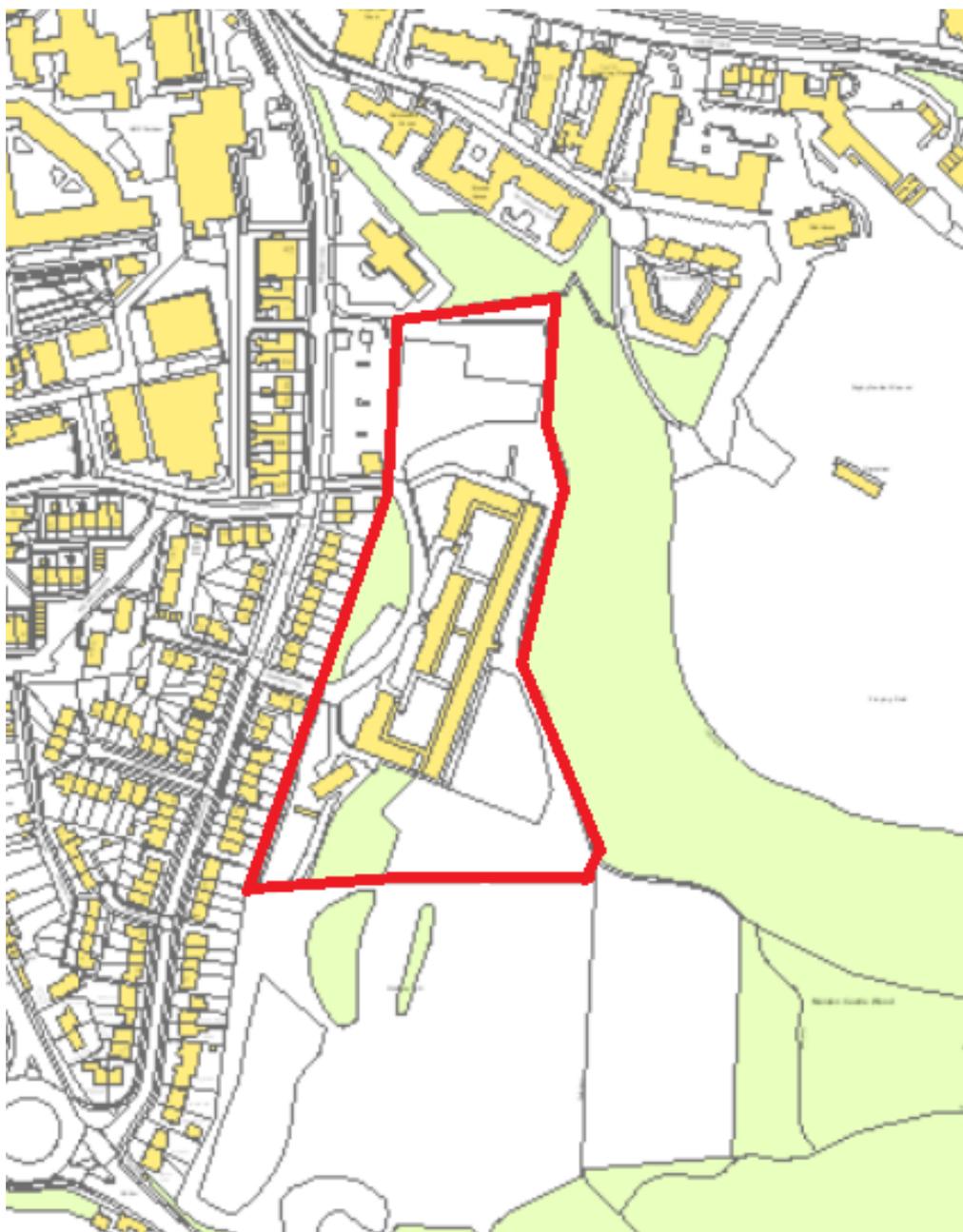
Reason: In the interests of the amenity of the area and to comply with policy U8a of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- Environmental Statement
- City of Durham Local Plan
- National Planning Policy Framework
- Consultation Responses



Planning Services

**Demolition of former Durham Johnston School
Whinney Hill and the erection of
75no. dwellings with associated
infrastructure, landscaping and car
parking at Durham Johnston
Comprehensive School Whinney Hill,
Durham, DH1 3BG
Ref: DM/16/03751/FPA**

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Date 14th March 2017