

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/01617/FPA
FULL APPLICATION DESCRIPTION:	Reopening of culverted watercourse through Chester-le-Street Market Place and creation of urban parkland at South Burns, Chester-le-Street
NAME OF APPLICANT:	Durham County Council
ADDRESS:	Market Place South Burns Chester-le-Street
ELECTORAL DIVISION:	Chester-Le-Street North
CASE OFFICER:	Chris Shields, Senior Planning Officer 03000 261 384 chris.shields@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site follows the path of the Chester Burn through Chester-Le-Street Town Centre from Menceforth Cottages in the west to the mouth of the culvert between Poplar Terrace and Cone Terrace. The existing culvert begins at the immediate west of the viaduct, travelling east past Tesco, underneath the market place, 'red carpet' adjacent to the war memorial, Newcastle Road and car parking areas before opening out to the south of Poplar Terrace.
2. The nearest residential properties to the proposed development areas are Menceforth Cottages 10m to the south, North Burns 20m to the north, River Terrace, Poplar Terrace and Hopgarth Gardens approximately 10m to the north and Cone Terrace 10m to the south.
3. The application site is located entirely within the Chester-le-Street conservation area. There are 5 listed buildings within close proximity to the site, these are the Grade II railway viaduct over Chester Burn, which oversails the culvert entrance, the Grade II Brewery House 30m to the south west of the Market Place, the Grade II Queens Head Hotel and the Grade II United Reformed Church approximately 250m to the south of the Market Place and the Grade I Church of St Mary and St Cuthbert approximately 350m to the south east of the Market Place. The Concangium Roman Fort scheduled monument covers an area surrounding the Church of St Mary and St Cuthbert.
4. The nearest public rights of way (PRoW) to the site are Footpath No's 8 and 14 (Chester-le-Street Parish) to the immediate south of the culvert exit, Bridleway No. 9

(Chester-le-Street Parish) to the immediate north of the culvert exit and Footpath No. 33 (Chester-le-Street Parish) approximately 40m to the north of the culvert entrance.

5. The parts of the site to be developed are located within Coalfield Development Low Risk areas, although there are bands of High Risk crossing the site. The western end of the site close to Menceforth Cottages is within Whitehill Hall Woods Local Wildlife Site (LWS). There are no other ecological or landscape designations within, or in close proximity to the site.

The Proposal

6. The application is seeking approval to undertake a Flood Alleviation Scheme along the Cong Burn corridor to address the historical and problematic flooding events that have impacted on residential and commercial properties in this area of Chester le Street.
7. To deliver the scheme it is necessary to relocate the existing market and open the area to reveal the culverted watercourse, the Cong Burn. The Cong Burn was enclosed in a culvert in the 1930's as there was concerns over the health implications of the "rancid" waters of the river. There were a number of industries upstream that used to discharge effluent into the water. These industries have since disappeared and the Cong Burn is now a clean watercourse that can sustain aquatic life, and there are benefits in removing the culvert lid. Not just from a flood risk perspective but also from creation of a biodiverse environment that can provide for, fish, insects, birds and larger mammals.
8. The proposed development is split into five site areas. Site 1 is located at the immediate north and west of Menceforth Cottages and would involve the creation of a 10m extension to the existing floodwall and new earth bund measuring 80m in length. Site 2 is the area between Menceforth Cottages and the railway viaduct and would involve the installation of a new floodwall. Site 3 is located around the existing culvert headwall and proposes the installation of an 11m long retaining wall with a height of 2m on between the culvert and the highway. There would also be a 0.6m high earth bund across the culvert to retain any water from overtopping the culvert. Site 4 is where the largest physical change would occur with the existing market place being relocated to Front Street in order to allow the culvert to be reopened with the resultant creation of a river feature with new hard and soft landscaping. The reopened river would be bounded by dwarf walls and fencing to prevent access. Site 5 is located close to Cone Terrace and would involve relocating an existing sewer out of the culvert, as the hydraulic modelling has identified this as being significant risk to water flowing through the culvert. The construction works at the site would last for approximately 12 months.
9. As part of the reopening of the culvert the existing red carpet area adjacent to the war memorial would be repaved and improvements made to the Front Street area, by decluttering the street scene, widening the footpaths and modifying the bus turning circle. This would facilitate the relocation of market to Front Street and would be a move away from fixed market stalls, which sterilise an area when not in use.
10. This planning application is being reported to County Planning Committee because it is a major development.

PLANNING HISTORY

11. Planning Permission was granted in 2006 for the repaving of the Market Place with the erection of a new site office, new access point and installation of public realm artwork.

PLANNING POLICY

NATIONAL POLICY

12. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). 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. 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’.
13. In accordance with Paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
14. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
15. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
16. *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. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
17. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
18. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.

19. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimizing impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
20. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

<https://www.gov.uk/guidance/national-planning-policy-framework>

21. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; flood risk; land stability; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The Chester-le-Street District Local Plan (2003) (CDLP)

22. *Policy T6 – Provision for Public Transport: General* – Development proposals should be designed to encourage use of public transport and reduce reliance upon the private car by locating accesses close to bus routes and footpath links. Where new transport links are required an appropriate contribution will be sought from the developer through a Section 106 obligation.
23. *Policy T15 – Access and Safety provisions in design* – Development should have safe access to classified road, should not create high levels of traffic exceeding the capacity of the local road network, have adequate links to public transport, with consideration for cyclists and service vehicles and emergency vehicles.
24. *Policy T17 – General Transport Policy* – All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking.

RELEVANT EMERGING POLICY:

The County Durham Plan

25. 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant. The full text, criteria, and justifications of each may be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Chester le Street Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

26. *Highway Authority* – Raise no objections.
27. *Northumbrian Water* – Raises no objections to the proposal.
28. *Environment Agency* - Raise no objections to the proposal subject to conditions relating to the design of the river restoration and protection of migratory fish. Advice is also provided in relation to biosecurity, flood risk and permitting.
29. *Drainage and Coastal Protection* – Raise no objection to the proposal in respect of flood risk and surface water management noting that the proposed hydraulic design has been carried out and approved in accordance with the Councils audit process.

INTERNAL CONSULTEE RESPONSES:

30. *Spatial Policy* – Raise no objections to the proposal. Officers have stated that there are no saved principle policies in the Chester-le-Street District Local Plan that are relevant to this proposal and it should therefore be determined in accordance with the NPPF.
31. *Design and Conservation* – Raise no objections to the proposals, stating that the proposals would enhance the significance of the conservation area and also the aesthetics and usability of the area in and around the market place. Officers have requested a condition to agree precise details of materials and finishes.
32. *Landscape* – Raise no objections and state that the planting details proposed are satisfactory. Officers have requested that the tree protection measures contained in the tree assessment are to be conditioned.
33. *Landscape (Arboriculture)* – Raise no objections. Officers note that there would be some tree loss but the proposal is generally acceptable provided that the tree protection measures are employed.
34. *Ecology* – Raise no objection to the proposal considering that is likely to enhance biodiversity on the site and result in ecological net gain. A planning condition is requested requiring the works to be undertaken in accordance with the supplied Biodiversity Mitigation and Management Strategy
35. *Environment, Health and Consumer Protection (Contaminated Land)* – Raise no objections. A planning condition is suggested requiring the submission of a verification report upon completion of the development.

36. *Environment, Health and Consumer Protection (Noise, Dust and Odour)* – Raise no objections. A planning condition is requested to agree a construction management plan prior to the commencement of development
37. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. Officers provided advice in relation to upper limits for annual average vehicle movements on the B613 between Glen Terrace and Menceforth Cottages and advise that preference should be given towards the use of plant and machinery with low or zero emissions.

PUBLIC RESPONSES:

38. The application was advertised within the press, on site and letters were sent to neighbouring properties. One letter has been received in support of the application from a member of the public.
39. The letter of support states that this is an excellent proposal that would reduce the flooding potential but also improve the quality of the town centre. The plans are very detailed and easily understood. It is further considered that the proposal covers the whole risk area of Menceforth Cottages to the culvert exit. Details such as the removal of the drain that crosses the culvert outlet (which reduces flow) demonstrate the all-encompassing nature of the proposal.

APPLICANTS STATEMENT:

40. The scheme at Chester Le Street Market Place which includes a de-culverting, hard and soft landscaping and diversion of pipe work has been developed to address repeated and severe flooding incidents from the Cong Burn, which is a main river in Chester Le Street.
41. The location and design of the de-culverting has been carefully considered and must be located in an area of the existing marketplace to have maximum benefit in regards to flood risk reduction.
42. This scheme will protect against flooding for storms classified up to 1 in 100 year events. The works will be provide increased capacity in the Cong Burn and additional storage for extreme flooding events.
43. As part of the consultation process Durham County Council (DCC) have addressed concerns raised during the consultation process. These can be summarised as follows:
 - Relocation of the market – retaining sufficient space for the regular market and identifying additional areas for larger events.
 - Highways - taking on board comments from officers as to the design of the scheme.
 - Ecology - introducing a wider range of species in de-culverted watercourse.
 - Surface Water - producing a detailed Flood Risk Assessment, Flood computer modelling and providing appropriate mitigation for changes to surface water flow paths.
44. In addition, appropriate measures will be taken during the construction phase of work to protect landowners and near neighbours of the site. These measures will include appropriate screening on the site boundary, a managed site controlling traffic and noise with dust suppression measures as required. In this regard a Transport Plan has been prepared.

45. DCC has noted the concerns of local residents and customers and has sought to address these concerns prior to and during the planning process. Officers have met with local residents, business owners and their representatives on a number of occasions and will continue to liaise closely with all stakeholders and near neighbours of the site to minimise disruption.
46. DCC as Lead Local Flood Authority work closely with other risk management authorities such as Northumbrian Water and the Environment Agency to manage and reduce flood risk. DCC have engaged pro-actively with other risk management authorities, land owner, near neighbours of the site and stakeholders to develop this robust solution and has demonstrated that this scheme meets all planning requirements.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

47. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, landscape impact, residential amenity, highway safety and access, flood risk and drainage, ecology, heritage and other matters.

The Principle of the Development

48. The principle of reopening a culvert, landscaping the created river banks and relocating the market place is not covered in whole or in part by saved policies contained within the CDLP and therefore the local plan is silent in relation the principle of the development. Therefore, the acceptability of the development largely rests on the NPPF Paragraph 14 tests. This requires a balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.

Landscape Impact

49. Parts 7 and 11 of the NPPF seek to promote good design and sets out that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Paragraph 58 of the NPPF states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
50. The proposed development would create an attractive river feature in place of the existing market place. The market place is currently fitted with fixed stalls that prevent any alternative use occurring and at times when the market is not in use the area is desolate.

51. The existing trees (London Planes) on the northern and southern edges of the market place would all be retained in the proposed scheme and supported by 6 additional trees, amenity grassland, planting beds and wildflower meadow.
52. The proposed development would provide a refreshing break in the expanse of hard standing in this part of Chester-le-Street. The proposal is considered to be an improvement to the streetscape and is supported by the Councils Landscape team. It is therefore considered that the proposal would accord with Parts 7 and 11 of the NPPF.

Residential Amenity

53. Paragraph 17 of the NPPF states that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Part 8 of the NPPF amongst other guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Whilst Part 11 seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution.
54. The nearest residential properties to the proposed development areas are Menceforth Cottages 10m to the south, North Burns 20m to the north, River Terrace, Poplar Terrace and Hopgarth Gardens approximately 10m to the north and Cone Terrace 10m to the south.
55. The development works would be completed over a period of approximately 12 months. The most disruptive works would be the reopening of the culvert, however, this is also the furthest point from residential properties. In terms of air quality, limits were provided by the Environmental Health and Consumer Protection Team for the B613 between Glen Terrace and Menceforth Cottages, however, this is not the designated route for construction vehicles and there is not an issue.
56. The Council's Environmental Health and Consumer Protection Team has advised that whilst they have no objections to the proposal, the development should be carried out in accordance with a construction management plan to be agreed through condition. Subject to adherence to an approved construction management plan, it is considered that the proposals would accord with Parts 8 and 11 of the NPPF, and would not have significant adverse impacts upon residential amenity during the construction period or thereafter.

Highway Safety and Access

57. CDLP Policy T15 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. CDLP Policies T17 and T6 seek to ensure that safe, attractive and convenient footpath links are provided, and where appropriate, to serve new development and provide access to public transport. These Policies are considered compliant with the NPPF which also seeks to promote accessibility by a range of methods, while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application, except for Policy T15 which uses out of date guidance and so is only partially compliant. The NPPF sets out at Paragraph 32 that safe and suitable access can be achieved for all people while setting out that developments that generate a significant amount of traffic should be supported by Transport Assessments or Statements. In addition Paragraph 32 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.

58. The application is accompanied by a Transport Statement (TS) which seeks to inform on and assess the key highways related implications of the development. The TS advises that major highway disruption is not envisaged with impact on traffic flows managed and minimised for the duration of construction works. The existing footpaths would be kept open as often as practicable and bus stops would be maintained, or temporarily relocated. Construction traffic would access the site via the A167 and B6313 during the construction works that would last approximately 12 months.
59. The proposed works to the existing market place, flood walls and the relocation of the market place to Front Street would not lead to a severe impact in the context of Part 4 of the NPPF. Highway Officers have raised no objections and it is therefore considered that proposals would comply with CDLP Policies T15 and T17 and would not conflict with Policy T6.

Flood Risk and Drainage

60. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.
61. A Flood Zone 3 area comprises land assessed as having a 1 in 100 or greater annual probability of river flooding (>1%). The more vulnerable uses and essential infrastructure should only be permitted in this zone if the Exception Test is passed. The Exception Test is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.
62. The application accompanied by a Flood Risk Assessment (FRA) which identified that the application site is located entirely within flood zones 2 and 3 and is therefore on land most likely to suffer from tidal or fluvial flooding. The site is not considered to be in an area of functional Floodplain, which means it is not required to allow water to flow or be stored in times of flood. Any development within this Zone must be designed to mitigate flooding from the identified risk. A full hydraulic study has been undertaken as part of the design process in developing the scheme. The FRA concludes that the finished flood mitigation scheme would deliver flood protection for up to 1 in 100 year flood events.
63. The primary purpose of the proposed development is alleviate flooding within Chester-le-Street with the secondary objective of improving the townscape. The Council's Drainage and Coastal Protection Team, Northumbrian Water and the Environment Agency have all been involved in the design and delivery of the proposal. These consultees have assessed the submitted FRA and found it to be acceptable. The development is therefore considered to accord with the objectives set out in Part 10 of the NPPF.

Ecology

64. The western end of the site close to Menceforth Cottages is within Whitehill Hall Woods Local Wildlife Site (LWS). There are no other ecological or landscape designations within, or in close proximity to the site. Part 11 of the NPPF seeks to ensure that

developments protect and mitigate harm to biodiversity interests, and where possible, improve them.

65. An ecology report including phase 1 habitat assessment and bat survey has been submitted with the application, highlighting that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site. The report concludes that the proposals are likely to result in a net gain in biodiversity, once completed and established.
66. The proposals have been considered by the Council's Ecologist who raises no objection to the proposal considering that it is likely to enhance biodiversity on the site and result in ecological net gain. Works within the stream are to follow industry best practice which should minimise negative impacts downstream of the site. The Council's Ecologist advises that the submitted Bat Report ecology confirms the culvert has negligible suitability for bats and no further surveys are required. If the application is approved please attach a condition requiring the works to be undertaken in accordance with the supplied Biodiversity Mitigation and Management Strategy
67. The Environment Agency raises no objections to the proposal subject to conditions relating to the design of the river restoration and protection of migratory fish.
68. Having regard to the proposed mitigation measures it is considered that the proposal would lead to an overall enhancement in biodiversity in accordance with the aims of Paragraph 118 of the NPPF. Accordingly, such enhancement can be considered to be a benefit of the scheme and weigh in favour of the development.

Heritage

69. The application site is contained entirely within the Chester-le-Street conservation area and is in close proximity to 5 listed buildings including the Grade I Church of St Mary and St Cuthbert approximately 350m to the south east of the Market Place. In addition, the Conangium Roman Fort scheduled monument covers an area surrounding the Church of St Mary and St Cuthbert.
70. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this must be given considerable importance and weight by the decision-maker.
71. Design and Conservation officers raise no objections to the proposals stating that the revisions to the floodwalls and other defences would preserve the character and appearance of the conservation area. Officers consider that the proposal to reopen the culvert through the market place would enhance the significance of the conservation area whilst also improving the aesthetics and usability of the area. There would be no harm to the significance of the listed buildings and scheduled monument in proximity to the site.
72. Paragraph 134 of the NPPF states that the impact of an application upon the significance of a designated heritage asset should be taken into account in the

determination of the application, and that the scale of any harm or loss to significance should be weighed in the balance. In this instance, with there being no harm upon significance, the application is considered to be acceptable in this regard, and in accordance with Part 12 of the NPPF.

Other Matters

73. A contaminated land assessment has been provided as part of the application which identifies works to be carried out during construction. Contaminated Land officers have considered the assessment and found it to be acceptable. A condition requiring validation of the results would be necessary to ensure the works are completed successfully across the development. The proposed development complies with Paragraphs 109 and 121 of the NPPF which would ensure the site and the surrounding area would be safe and appropriately remediated.
74. The parts of the site to be developed are located within Coalfield Development Low Risk areas, although there are bands of High Risk crossing the site. If the proposal is granted planning permission, it will be necessary to include The Coal Authority's Informative Note within the decision notice as an informative note to the applicant in the interests of public health and safety. The proposal would therefore not conflict with Part 11 of the NPPF.
75. There are PRow close to the site. Footpath No's 8 and 14 (Chester-le-Street Parish) are to the immediate south of the culvert exit, Bridleway No. 9 (Chester-le-Street Parish) is to the immediate north of the culvert exit and Footpath No. 33 (Chester-le-Street Parish) is approximately 40m to the north of the culvert entrance. Footpaths 8, 14 and 33 would not be affected by the proposals. However, there would be the need for a trench to be dug across Bridleway No.9, which would affect its use for around two weeks, with any impacts being appropriately managed. Given the limited overall impact on the PRow network, the proposals would not therefore conflict with Part 11 of the NPPF in respect of access and rights of way.

Planning Balance

76. The CDLP is silent in respect of the proposed development and therefore the acceptability of the application should be considered under the planning balance test contained within Paragraph 14 of the NPPF.

Benefits

77. The development would alleviate flood risk from a town centre that has experienced recent significant flood events. The development would also revitalise and improve the aesthetic appearance of the town centre with the creation of an open river feature. The reopening and widening of the river channel coupled with the creation of wildflower meadow would deliver biodiversity improvements to a relatively barren site.

Adverse Impacts

78. During the construction period there may be minor localised impacts but a construction management plan would be required through condition. Overall, it is considered that there would be no adverse impacts arising from the proposals.

CONCLUSION

79. The proposed development would deliver necessary flood management to Chester-le-Street town centre through a combination of additional and improved defences and also by creating significant additional capacity within the Chester Burn watercourse. A further benefit of the proposal is the creation of an attractive river feature on the site of the existing market place with associated improvements to the hard and soft landscaping in this area.
80. Whilst it could be considered that the loss of the existing market place is a negative impact there have been no objections received to indicate that this is the case. In addition, provision would be made through this scheme to relocate the market place to a new site on Front Street. There have no objections to the proposal and one letter of support has been received highlighting the benefits of the proposals.
81. Notwithstanding this, the acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 14 of the NPPF given the absence of relevant saved CDLP policies. In the absence of any specific policies that indicate development should be restricted, Paragraph 14 sets out that the development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
82. As set out above, the proposed development would not result in any adverse impacts, and therefore the test of whether any impacts “significantly or demonstrably” outweigh the substantial benefits identified above does not need to be applied. As a result, the presumption in favour of granting planning permission in accordance with Paragraph 14 prevails.

RECOMMENDATION

That the application is **APPROVED** subject to the following conditions:

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

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

2. The development hereby approved in shall be carried out in strict accordance with the following approved plans and documents:
 - Jacobs (16th May 2018) Chester-le-Street De-Culverting Works, Durham County Council, Geoenvironmental Assessment
 - Tree Assessment dated 6 June 2018
 - Biodiversity Mitigation and Management Strategy
 - Drawing No. 1365867-G-002 – Site 1 Proposed General Arrangement
 - Drawing No. 1365867-S-001 – Site 1 Floodwall Plan and Cross Sections
 - Drawing No. 1365867-S-003 – Site 1 Floodwall Modifications – Section Details
 - Drawing No. 1365867-2-G-002 – Site 2 Proposed General Arrangement
 - Drawing No. 1365867-2-S-001 – Site 2 Floodwall Long Section
 - Drawing No. 1365867-3-G-002 – Site 3 Proposed General Arrangement
 - Drawing No. 1365867-3-S-001 – Site 3 Floodwall Extension – Plan and Sections
 - Drawing No. 1365867-4-G-002 – Site 4 Proposed General Arrangement
 - Drawing No. 1365867-P-018 – Site 5 General Arrangement

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Parts 11 and 12 of the National Planning Policy Framework.

3. Prior to the commencement of development full details of materials and finishes including fencing shall be submitted to the Local Planning Authority for agreement in writing. The development shall be carried out in accordance with the agreed details.

Reason: To ensure that the development hereby approved is of a high standard that integrates with the Chester-le-Street conservation area in accordance with Part 12 of the National Planning Policy Framework. Required to be pre-commencement in order to ensure that the materials are of a suitable standard.

4. Any works permitted by this permission that has the potential obstruct migratory fish passage should be avoided, or if work is to be carried out inside the sensitive time for migratory fish an agreed working method statement must be produced to demonstrate how fish passage will be maintained at all times.

Reason: To avoid disturbance to migratory fish whilst moving to their spawning grounds. If work is carried out inside this window or fish passage is not maintained as described in the agreed working method statement there is a risk of committing an offence under the Salmon and Freshwater Fisheries Act 1975 and conflicting with the objectives of Part 11 of the National Planning Policy Framework.

5. The development hereby approved shall be carried out in full accordance with the tree protection measures details in the Tree Assessment.

Reason: To ensure that trees are protected from damage for the duration of construction works in accordance with Part 11 of the National Planning Policy Framework.

6. No development shall commence until a Construction Management Plan covering that phase shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

- A Dust Action Plan including measures to control the emission of dust and dirt during construction
- Details of methods and means of noise reduction
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);
- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
- Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic.
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

- Detail of measures for liaison with the local community and procedures to deal with any complaints received. The management strategy shall have regard to BS 5228 “Noise and Vibration Control on Construction and Open Sites” during the planning and implementation of site activities and operations.

The approved Construction Management Plan(s) shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 11 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

7. During the implementation of the remedial works, 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 the YALPAG guidance and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with the YALPAG guidance. The works shall be completed in accordance with any amended specification of works. Upon completion of the remedial works, a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Jacobs (16th May 2018) Chester-le-Street De-Culverting Works, Durham County Council, Geoenvironmental Assessment shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the works.

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 Part 11 of the National Planning Policy Framework.

8. Prior to the commencement of development a scheme detailing the river restoration shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide detail in relation to design, hydromorphology and monitoring. The development shall thereafter be carried out in accordance with the approved details.

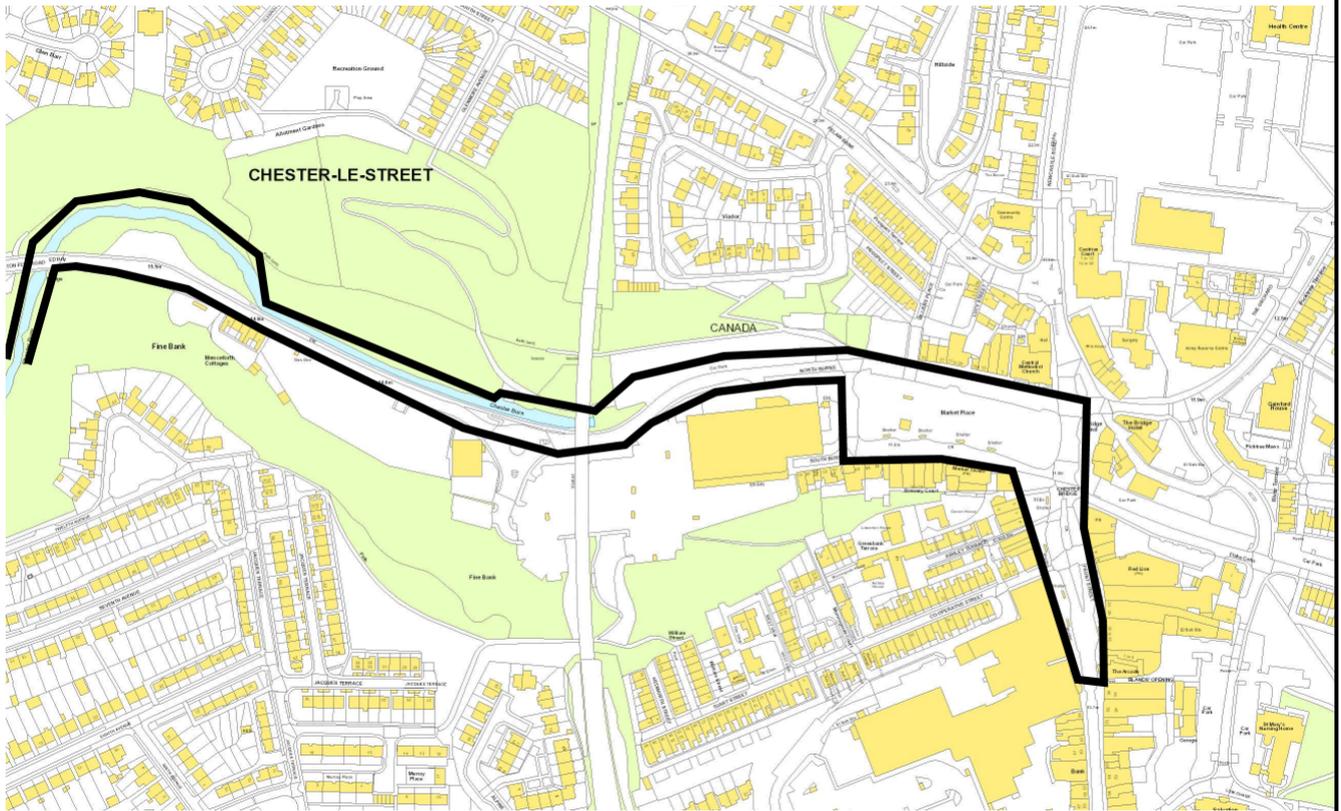
Reason: Necessary to ensure that the proposed river restoration is developed in a way that contributes to the nature conservation value and fisheries value of the site in accordance with Part 11 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- Chester le Street District Local Plan
- Statutory, internal and public consultation responses



Planning Services

DM/18/01617/FPA

Reopening of culverted watercourse through Chester-le-Street Market Place and creation of urban parkland at South Burns, Chester-le-Street

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Comments

Date July 2018

Scale
Not to scale