

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: DM/18/02924/FPA

**FULL APPLICATION
DESCRIPTION:**

Erection of office block (identified as Block 1E) (B1 use class) with flexible permission for shop, food and drink and assembly & leisure uses at ground floor level (Use Classes A1, A3 and D2) and associated public square and landscaping

NAME OF APPLICANT: MGH Card LLP

ADDRESS: Former Milburngate House, Framwelgate Waterside, Durham City

ELECTORAL DIVISION: Elvet and Gilesgate

CASE OFFICER: Andrew Inch, Strategic Development Manager
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DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a 0.74ha parcel of the former Milburngate House site and is situated in the more north-western quarter of this overall site. In the west the application site comprises of parts of Framwelgate Peth and at its southern end includes a proposed vehicular access into the overall development off Framwelgate Peth. The wider site is located in the north of Durham City Centre and on the western bank of the River Wear.
2. The former Milburngate House building was constructed in the 1960s and was purpose built for the Post Office Savings Bank, later known as the National Savings & Investments. Planning Permission (DM/15/01119/FPA) was granted in July 2015 for the demolition of the building including remediation and enabling works in preparation for future redevelopment on the site. These demolition and preparation works for redevelopment are now nearing completion.
3. To the north of the wider Milburngate House site is the Radisson Hotel with residential properties in Sidegate beyond whilst in the south is the former Gates Shopping Centre currently nearing completion of its redevelopment into The Riverwalk. On the opposite side of the River Wear to the east lie the Freeman's Reach office development and beyond that the Walkergate development. In the west, on the opposite side of Framwelgate Peth, are residential properties at Highgate.

4. The application site is within close proximity to a number of designated and non-designated heritage assets. Notably, the site is within the Durham (City Centre) Conservation Area and within the setting of the Durham Castle and Cathedral World Heritage Site (WHS). The WHS is located approximately 340m from the application site at the nearest point.
5. The site contains no statutory or locally designated landscapes or ecological sites. There are no designated public rights of way within the application site.

The Proposal and Background:

6. In March 2018 planning permission (DM/16/01228/FPA) was granted in detail for the redevelopment of the wider site with a mixed use development comprising of leisure (use classes D1 and D2), retail (use class A1), financial and professional services (use class A2), food and drink (use class A3, A4 and A5), offices (use class B1) and 291 residential units (use class C3) together with outline planning permission with all detailed matters reserved except access for a mixed use development of office (use class B1) and a maximum of 150 residential units. The buildings and public realm forming the development would step up from the lower riverside level to the higher land towards Framwelgate Peth and would sit atop of a podium level predominantly housing four levels of parking and servicing.
7. Within the detailed planning permission that was granted, six building blocks were approved including a Block 1e building comprising of 8 storeys of residential apartments commencing at levels 03 (effectively the ground floor above the podium) with void spaces above these residential floors. The Block contained 109 apartments.
8. This planning application seeks to replace the approved residential building with one that would be occupied predominantly as an office (Class B1), although the ground floor could be utilised as office space or for retail (A1), food and drink (A3) or assembly and leisure (D2) uses. The building would comprise 6 storeys of commercial floor space albeit part of the building ceases at 5 storeys. Beneath the building would be levels of parking and servicing.
9. The footprint of the revised building would differ from that previously approved. The gross external area (GEA) is less than that previously approved (approx 6,350m² as oppose to 10,300m²). The shape of the footprint would in turn alter.
10. The northern elevation of the building would be set on a diagonal responding to a pedestrian route and vista through the development which is touched upon more below. The external facades of the building would principally comprise of reconstituted stone, masonry, aluminium metalwork and curtain walling. The building would essentially adopt a flat roofed approach to its roofscape though this would not be uniform as it would include a distinct step/cascade and would also contain a roof terrace.
11. Public realm would enclose the building to its north, west and east. To the north would be sections of a feature pedestrian route through the site leading from Framwelgate Peth and ultimately ending at the riverside level. To the east would be a feature area of hard and soft landscaping public realm. To the west between the building and Framwelgate Peth an area predominantly comprising of soft landscaping is proposed. To the immediate south of the building a narrow strip of public realm is proposed before the vehicular access route from Framwelgate Peth down to the car parking beneath the build is located.

12. There are no changes to the proposed access and parking arrangements for customers/visitors and staff. The main access to the public car park proposed under the wider redevelopment would remain off Framwelgate Waterside at the riverside level. It should be noted that a separate pending application (DM/18/00896/VOC) proposes amendments to the approved access arrangements for the wider development and that application should be referred to for the detail. There is also a further separate application being considered for a hotel development within the wider site (DM/18/00894/FPA).
13. The application is reported to the County Planning Committee as it constitutes a major commercial development and is of strategic importance to the wider redevelopment of the Milburngate House site that was previously considered by County Planning Committee in November 2016.

PLANNING HISTORY

14. Planning Permission DM/15/01119/FPA was granted in July 2015 for the demolition of Milburngate House including remediation and enabling works in preparation for the proposed future redevelopment on the site.
15. In March 2018 planning permission was granted for the redevelopment of the site with a mixed use development comprising of leisure (use classes D1 and D2), retail (use class A1), financial and professional services (use class A2), food and drink (use class A3, A4 and A5), offices (use class B1) and 291 residential units (use class C3) together with associated access, demolition, landscaping and infrastructure works (detailed permission) and outline planning permission with all detailed matters reserved except access for a mixed use development of office (use class B1) and a maximum of 150 residential units (use class C3) and associated landscaping and infrastructure works.
16. An application is currently pending consideration (DM/18/00896/VOC) for the variation of conditions 4 and 20 of the above redevelopment so as to permit new service yard access, car parking and servicing yard amends, additional cinema screen and amendment to Framwelgate Peth access so as to permit non-residential traffic.
17. An application is currently pending consideration (DM/18/00894/FPA) for amends to Block 1a to form 2-bed hotel and two commercial units for shop, professional and financial service and/or food and drink uses (Class A1-A5) with associated works
18. Though not on the application site but also of some background relevance is the redevelopment of the adjacent Gates Shopping Centre to a mixed use scheme known as The Riverwalk first granted planning permission in November 2015 (DM/15/01626/FPA). The redevelopment is well advanced with some of the first units now occupied.
19. On land on the opposite side of the River Wear at the Sands car park and Durham Sixth Form Centre car park, an application is also pending consideration for an office headquarters with associated car parking (inclusive of a multi-storey car park) with associated landscaping, highway and infrastructure works and demolition of existing structures (DM/18/02369/FPA).

PLANNING POLICY

NATIONAL POLICY

20. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
21. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). 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.
22. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
23. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
24. *NPPF Part 6 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
25. *NPPF Part 7 - Ensuring the Vitality of Town Centres.* Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
26. *NPPF Part 8 – Promoting healthy and safe 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.
27. *NPPF Part 9 – 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.

28. *NPPF Part 11 – Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
29. *NPPF Part 12 – Achieving well-designed places.* 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.
30. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
31. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - 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.
32. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

33. 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; climate change; conserving and enhancing the historic environment; design; ensuring the vitality of town centres; environmental impact assessment; flood risk; health and well-being; land stability; land affected by contamination; light pollution; natural environment; neighbourhood planning; noise; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The City of Durham Local Plan (May 2004) (CDLP)

34. *Policy E3 – World Heritage Site Protection.* Protection seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.

35. *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.
36. *Policy E10 – Areas of Landscape Value.* States that development which would have an unacceptable adverse impact upon areas of high landscape value will be resisted.
37. *Policy E14 – Existing 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.
38. *Policy E15 – New Trees and Hedgerows.* States that the Council will encourage tree and hedgerow planting in major development sites.
39. *Policy E16 – Nature Conservation – The Natural Environment.* This policy 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.
40. *Policy E21 – The Historic Environment.* This requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
41. *Policy E22 – Conservation Areas.* This policy 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.
42. *Policy E23 – Listed Buildings.* This policy seeks to safeguard Listed Buildings and their settings from unsympathetic development.
43. *Policy E24 – Ancient Monuments and Archaeological Remains.* This policy sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
44. *Policy EMP12 – Office Development – General.* Encourages new office development within or adjacent to Durham City Centre and within district and local centres.
45. *Policy H13 – Residential Areas – Impact upon Character and Amenity –* protects residential areas from development that would have a significant adverse effect on their character or appearance, or the amenities of residents within them.

46. *Policy T1 – Transport – General.* This policy 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.
47. *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.
48. *Policy T19 – Cycling – Development of Cycle Routes.* The Council will seek to ensure the development of a safe, attractive and convenient network of cycle routes.
49. *Policy T20 – Cycling – Provision of Cycle Parking.* Sets out a requirement to encourage the provision of facilities for parking cycles in the city centre and at other appropriate locations.
50. *Policy T21 – Walkers Needs.* States that existing footpaths and public rights of way should be protected.
51. *Policy S1a – Retail Hierarchy.* Seeks to protect and promote the vitality and viability of Durham City Centre
52. *Policy S10 – Food and Drink.* Advises that planning permission for food and drink uses will be permitted provided that there are no adverse impacts upon nearby occupiers, there is no harm to the character and appearance of the area, no objection to parking provision and the development does not compromise the proportion of uses within the primary and secondary retail areas of the City.
53. *Policy V6 – Visitor Accommodation within Settlement Boundaries.* Advises that new and extensions to existing visitor accommodation within settlement boundaries will be permitted provided that they are acceptable in scale and character and comply with other policies in the plan.
54. *Policy CC1 – Vitality and Viability.* Seeks to protect and enhance the vitality and viability of the City Centre (reference is made to mixed uses, active street frontages, use of upper floors, residential occupation, environmental improvement and a safe, accessible and friendly public realm).
55. *Policy Q1 – General Principles Designing for People.* Requires the layouts of developments to take into account the requirements of users including: personal safety and security; the access needs of people with disabilities and the elderly; and the provision of toilets and seating where appropriate.
56. *Policy Q2 – General Principles Designing for Accessibility.* The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
57. *Policy Q4 - Pedestrian Areas.* Requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.
58. *Policy Q5 – Landscaping – General.* Requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.

59. *Policy Q6 – Landscaping – Structural Landscaping.* Requires all new development located on the outer edge of settlements or exposed sites will be required to include peripheral structural landscaping within the site in order to minimise any adverse visual impact of the proposal.
60. *Policy Q7 – Layout and Design – Industrial and Business Development.* Requires the siting, design and external appearance of all new industrial and business development to; be of a standard appropriate to the designated area within which it is located; and have regard to policies Q1 and Q2.
61. *Policy Q15 – Art in Design.* This policy 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.
62. *Policy U5 – Pollution Prevention – General.* Planning permission for development that may generate pollution will not be granted if it results in; an unacceptable adverse impact upon the quality of the local environment; the amenity of nearby and adjoining land and property or; will unnecessarily constrain the development of neighbouring land.
63. *Policy U7 – Pollution Prevention – Development Sensitive to Pollution.* Developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.
64. *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.
65. *Policy U9 – Watercourses.* States that development which may affect watercourses will only be permitted provided that they do not result in flooding or increase flood risk elsewhere; or they do not result in the pollution of the watercourse; or they do not adversely affect nature conservation interests; or they do not adversely affect the visual appearance of the landscape; and their environmental impact is properly assessed.
66. *Policy U10 - Development in Flood Risk Areas.* States that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless it can be demonstrated that alternative less vulnerable areas are unavailable, that no unacceptable risk would result, that no unacceptable risk would result elsewhere, or that appropriate mitigation measures can be secured.
67. *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.
68. *Policy U13 – Development on Unstable Land.* Advises that development on unstable land will only be permitted where there is no risk resulting from that instability or where the instability can be remediated.
69. *Policy U14 - Energy Conservation – General.* States that the energy efficient materials and construction techniques will be encouraged.

EMERGING PLAN:

The County Durham Plan

70. Paragraph 48 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.

Durham City Neighbourhood Plan

71. The pre submission draft of the Durham City Neighbourhood Plan has been subject to its first formal public consultation, which closed on 18th December 2017.
72. This council has made representations on the pre submission version of the plan and the associated Strategic Environmental Assessment, which raises a number of significant issues that will need to be resolved in order that the plan meets the prescribed Basic Conditions. In light of this, and given the stage of preparation, it has not yet reached a point where it can be afforded weight.

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/ldf> (City of Durham Local Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

73. *Highway Authority* – No objection subject to a condition to control the operation of the associated car park.
74. *City of Durham Parish Council* – recommends the application be refused on the grounds that its height and uniformity would result in a conspicuously block-like mass rising incongruously against its more varied neighbours and immediate surroundings and represents a weakening of the design ethos that underpinned the consented scheme, failing to preserve or enhance the conservation area whilst interfering with views of the World Heritage Site. Loss of residential development from the scheme is also highlighted so too is the piecemeal approach to changing elements of the overall development.
75. *Historic England* – raise concerns on heritage grounds and suggest that the viability of reducing the height of the proposal is considered in order to produce a more harmonious appearance within the Milburngate redevelopment. More specifically, they consider the proposal represents a weakening of the design ethos that underpinned the consented scheme which sought to balance its scale with references to the pattern of Durham's historic town buildings. Considering the significance of the conservation area as a whole, the negative impact would be minor in its degree of harm and, as such, this should be weighed against the public benefits of a proposal, taking into account the way in which the same benefits could be delivered with a more sympathetic design, specifically a reduction in height.

76. *Drainage and Coastal Protection* - no objection to the proposal subject to the development being implemented in accordance with Section 2 of the Drainage Strategy Addendum which confirms that the discharge points and limiting discharges remain the same as previously approved.
77. *The Coal Authority* – No objection. Whilst the proposed development site falls within the coalfield, there are no recorded coal mining legacy hazards at shallow depth that could pose a risk to land stability. Informative on Standing Advice is recommended.
78. *Environment Agency* – Raise no objections. In respects to flood risk stating that the development should be implemented in accordance with the submitted Flood Risk Assessment. In respects to ecological matters mitigation measures in respects to breeding birds and the European Hedgehog is advised in accordance with ecological submissions accompanying the application, whilst tree planting to compensate on that lost is advised as part the redevelopment having regards to bat foraging.

INTERNAL CONSULTEE RESPONSES:

79. *Design and Conservation* – Officers consider that whilst the design, through suggested revisions, has made some effort to facilitate integration through materiality, the overall height, scale, and mass, remains at odds with the original masterplanning concepts and, as such, reflects negatively on the Conservation Area and setting of the World Heritage Site. When considering this in the round, the harm is assessed as minor and in the context of the NPPF this would be less than substantial, and needs to be weighed against the public benefits of the proposal. Should the opportunity arise, the re-masterplanning of the site including the relocation of this block to a less sensitive location should be undertaken.
80. *Landscape* – Raise no objections in general to the amended landscape and public realm amends which are on the whole well considered though some amends to detail would be required this includes to the landscape treatment to Framwelgate Peth whilst some areas of astroturf are proposed which should be replaced. Concern is expressed with the indicative designs of the suspended steps/walkway from Framwelgate Peth and alternative options should be investigated.
81. *Spatial Policy* – advise that the policies most important for determining the application are out of date including those relating to the city centre where more recent retail evidence has since been published which has considered amendments to the city centre boundary and frontage policies based on updated national guidance and developments on the ground. National policy also provides more updated guidance on the sequential test. In light of the above it falls that the policy is considered through paragraph 11 and the presumption in favour of sustainable development.
82. *Ecology* – Officers advise that the ecological impacts would be in line with the previously consented scheme and, in particular, that lighting impacts on the river edge are not anticipated as the building is likely to be far enough away from the river.
83. *Archaeology* - No objection.
84. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. During the construction phase of the development a condition requiring a dust action plan would be necessary. Further details in regards to heavy duty vehicle movements during the construction phase are requested and if necessary their impact assessment. No objections are raised in regards to the operational phase of the development.

85. *Environment, Health and Consumer Protection (Contaminated Land)* – No objection subject to a condition requiring the completion of remediation works.
86. *Environment, Health and Consumer Protection (Pollution Control)* – No objection subject to the imposition of planning conditions in relation to noise mitigation, fume extraction, external lighting, operating hours of non-office uses, noise attenuation of plant and machinery and a construction management plan.
87. *Targeted recruitment and Training* – No objection subject to a S106 agreement or a planning condition to secure employment and skills training that will assist the local community by improving job prospects and employability.
88. *Travel Planning* – Advise that some amendments be made to the submitted travel plan.

NON-STATUTORY RESPONSES:

89. *Durham Constabulary Architectural Liaison Officer* – advise that the crime risk assessment in terms of traditional offences of burglary and theft is low; however, there are some concerns as to how the development will impact on the residential amenity of the households proposed for other phases of the site as a whole. Advice is provided in respects to protective landscaping and public realm measures. The hours of operation of any A3 use should be restricted to midnight. Careful consideration should be given to outdoor seating areas. The main pedestrian route adjacent to the Block should at its northern end be lit to adoptable standards.
90. *Northumbrian Water* - No objection subject to the imposition of a planning condition requiring development to take place in accordance with the Drainage Strategy Addendum.

PUBLIC RESPONSES:

91. The application has been publicised by way of press notice, site notice and individual notification letters to neighbouring residents and occupiers. A total of 4 letters of representation have been received all raising objections to the development. Comments are summarised below.

Highways Issues

- The related amendments to the Framwelgate Peth access is unacceptable with concerns expressed over pedestrian safety including with regards to the concentrations of student pedestrians who use the routes and that they walk in the road at times

Design and Heritage

- Objection is raised to the design and visual impacts of the development which are deemed to lack the necessary quality and interest

92. *Durham Bird Club* – Express disappointment that the development does not incorporate measures so as to encourage birds to be attracted to the redevelopment. Suggestions to incorporate habitat improvement measures are included. For reference comments supplied on the original planning permission (DM/16/01228/FPA) are supplied.

93. *Campaign to Protect Rural England* – Raise objections on the grounds of the harmful townscape and heritage impacts of the development inclusive of the World Heritage Site and Conservation Area. For reference comments supplied on the original planning permission (DM/16/01228/FPA) are supplied.

APPLICANTS STATEMENT:

94. The proposed development comprises an office block (Class B1) with ancillary uses on the ground floor and an associated public square and landscaping at Block 1E of the Milburngate site.
95. Under the existing consent, Block 1E has permission for residential use. This proposed use was based on market intelligence and forecasting at the time of the application. However, following updated advice and detailed engagement over the last two years with potential occupiers/funders/tenants, it has become apparent that delivery of large residential schemes in this market area is not a viable and deliverable option in the first Phase of the development. For these reasons, the applicant has therefore identified a requirement to deliver alternative uses within Phase 1.
96. There has been a proven demand for employment use within the city, research by North-East agents shows that in the first six months of 2018 there were enquires from occupiers looking for a combined 730,000sqft of office space across the region which could have considered Durham with an average enquiry size of 40,000sqft, equating to in the region of 6,700 jobs. Other towns and cities in the North East have all increased commercial property development in recent years which is attracting footloose occupiers whilst Durham has no office space to meet these requirements. The proposed office will create a vital kick starter to enable Durham to be promoted to the occupier market as a city that is truly open for business. It will provide a central part of the City's core infrastructure and will enable Durham to attract occupiers who are increasingly being drawn to CBD locations, and importantly allow the City to compete with the other North East regional city centres.
97. The proposed office is within the maximum height parameters set by the existing permission and has a footprint which is 11% smaller than the approved scheme plus has created additional opportunities for landscaping and public realm. The massing of the proposed office has been developed with careful consideration of its context and avoids unsuitable uniformity by introducing several breaks in massing and materiality. The building geometry is subtle yet dynamic in the range of massing/scale relationships presented across various vantage points. This approach will provide visual clarity of the different use and step change in this area to the commercial context leading on to additional office development proposed in Phase 2, thus providing a further layer of variety which is vital to all good masterplans.
98. The proposed development will complement the other components of the consented mixed-use scheme and will provide a more attractive environment for residents and visitors. The scheme will provide high-quality office space accommodation within a sustainable city centre location which will create up to 416 jobs once operational. This has the potential to increase footfall within the city and will result in additional spending in the city and local economy. In addition, the scheme will also enable the delivery of a key axial link providing a direct route from Framwellgate Peth to the heart of the Milburngate site and through to the riverside as well as the delivery of Durham Square.
99. In summary, the development of the office will meet the proven demand for high-quality office scape in the city and will deliver a significant number of social, economic and environmental benefits itself and within the context of the approved wider Milburngate Masterplan.

PLANNING CONSIDERATIONS AND ASSESSMENT

100. 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. The National Planning Policy Framework (NPPF) and 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; visual, townscape and heritage impact; highway safety/issues; residential and occupier amenity; flood risk and drainage; ecology; and viability and planning obligations.

The Principle of the Development

101. The application seeks planning permission for the revised Block 1e building which would predominantly house a B1 use class office together with floorspace on the lowest floor which could be utilised for shop (A1), food and drink (A3) or assembly and leisure (D2) uses. The majority of these uses, save for café A3 usage, would each constitute a main town centre use as defined within the NPPF and as a result the NPPF advises that such developments should be located within town centres.
102. Under the wider redevelopment proposals with planning permission (DM/16/01228/FPA), B1, A1, A3 and D2 uses were accepted and already have planning permission and therefore the principle of such uses at the site has been accepted under the existing planning permission.
103. The application site is located within Durham City Centre. The CDLP includes a dedicated chapter on the City Centre advising on the range of issues which affect its environment, character and health. The chapter includes reference to a range of policies which are considered relevant to City Centre issues and three policies covering site allocations and general guidance on vitality and viability. Since the adoption of the CDLP a more recent Retail and Town Centre Study was undertaken in 2009, reviewed and updated in 2013 and again in 2018. The findings of these studies are that, since the adoption of the CDLP in 2004, city centre developments have expanded in the city (such as Walkergate and the Radisson hotel, for example) and the functional boundary of the city centre identified within those studies includes the application site. The application site is considered part of the functioning Durham City Centre and the site is therefore considered appropriate in principle for main town centre uses such as that proposed.
104. CDLP Policy CC1 seeks to protect and enhance the vitality and viability of Durham City Centre, in particular, by providing a mixture of uses within that area and promotes the sequential approach to site selection. The thrust of the policy is largely consistent with the NPPF, however, it is not fully consistent as the policy explains that the sequential approach will be applied to retail and leisure developments whilst the NPPF requires a broader application of this test.
105. CDLP Policy S1a does not clearly define a hierarchy of town centres as such, and it does not extend to the whole of the County but it does, within the former City of Durham

District, identify Durham City Centre at the head of the retail hierarchy, and this is considered generally consistent with the content of the NPPF as a result.

106. As the proposals would involve the provision of a mixture of office and main town centre uses within a city centre location the proposals are considered to draw support from CDLP Policies CC1 and S1a.
107. CDLP Policy EMP12 relates to office development and advises that, in principle, such development will be encouraged within or adjacent to the City Centre and within district and local centres. The justification to the policy highlights that Policy CC2 identifies specific sites within the City Centre for office development but the policy does not restrict office development to only those sites. With the application site located within the City Centre, the proposal is, in principle, considered to draw support from Policy EMP12. The policy is not fully consistent with the NPPF as the NPPF is clear that an in centre location is sequentially preferable to an edge of centre location, a distinction not made under EMP12.
108. The principle of the provision of food and drink uses would also be in accordance with CDLP Policy S10 which identifies that within settlement boundaries, such development will be permitted (subject to a range of criteria that covers amenity, parking and scale). This policy is only partially consistent with the NPPF as, unlike the NPPF, it does not reference the need to adopt a sequential approach to site selection for restaurants and drinking establishments.
109. The proposals would result in the redevelopment of previously developed land in a locationally sustainable site in close proximity to Durham train station, bus station and the collection of bus stops on Milburngate.
110. Objections received in response to the consultation on the application proposals include objection to the resultant loss of residential units. The residential units within the as approved Block 1e proposal were considered an acceptable use under that application. However, as outlined above the main office and other commercially uses sought in this revised scheme are main town centre uses, uses that are expected within a city centre location, which draw support in principle from national and local planning policy guidance and indeed represent uses which the existing planning permission has already considered are acceptable in principle at the site. It is considered that the proposed scheme could not reasonably be opposed on the basis that it was at the expense of residential use.
111. With regards to the concerns over the need for further office space and, that the mixture of uses proposed is at the expense of other forms of development which could contribute to the economy of Durham City Centre, again officers would firstly highlight that the mixture of uses are main town centre uses which are acceptable in principle. Neither the applicable CDLP policies nor the NPPF require the need for the development be demonstrated.
112. Overall, the proposed development is considered to draw support from local and national planning policy guidance and represents the sustainable re-use of previously developed land within a city centre location close to other services and transport hubs. No objections are therefore raised to the principle of the development.
113. The NPPF advises that weight to local plan/development plan policies adopted prior to the publication of the NPPF (in its revised form) should be attributed according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Existing policies should not be considered out-of-date simply because they were adopted or made prior

to the publication of this Framework. Equally, however, where evidence, which informed a policy, has been superseded by more up-to-date evidence, this can also be a reason to conclude the policy itself is out of date.

114. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development and this is detailed at paragraph 11 which states;

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

115. In this instance, and having regards to the above discussion on some key policies, the CDLP includes policies most important for determining the planning application, which are out-of-date. Accordingly, the acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF. Such an assessment is undertaken in the concluding sections of this report, following consideration and assessment of the all the key material planning considerations.

Visual, Townscape and Heritage Impact

116. The Milburngate House site generally, is located within a very sensitive and prominent location. The potential impact upon the townscape and a range of heritage assets was a critical matter for consideration in regards to the original redevelopment proposal under application DM/16/01228/FPA.
117. The site is located within the Durham (City Centre) Conservation Area. Beyond the application site, a range of designated and non-designated heritage assets are within close proximity. This includes, but is not restricted to, Durham Cathedral and Castle WHS (340m to the south), Church of St Godric (Grade II listed and approximately 150m to the southwest), Castle Chare Community Arts Centre (Grade II* listed and approximately 120m to the southwest) Church of St Nicholas (Grade II listed and approximately 270m to the southeast)). Concentrations of listed buildings are also located within the Market Place, including the Grade II* Town Hall and Guildhall, some 225m to the south east.
118. In assessing an application, 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. Any such harm must be given considerable importance and weight by the decision-maker.

119. In the assessment of the wider redevelopment proposals with planning permission it was noted that the proposed development was of a significant scale, reflective of the significant scale of the buildings previously standing on the site and the extensive scale of the site itself, exacerbated by the significant level changes around the site. The manner in which the development sought to cascade the significant level changes down to the River Wear was welcomed including the use of pitched roofs. There was some divergence in opinion between Historic England and Design and Conservation officers in respect to the precise impacts of the development upon the WHS. Historic England clearly considered the proposal an improvement to the setting of the WHS in comparison to what previously stood on the site whilst Design and Conservation officers considered that whilst in some respects the WHS would be beneficially impacted upon there was some concern raised in regards to the scale of the development and impact in some key views as a result. The conclusions overall were that the townscape and visual impacts were acceptable and most importantly the character and appearance of the Conservation Area and setting of the WHS would be preserved.
120. The proposals subject of this application would involve the replacement of a residential block with one primarily in office use. The approved Block 1e in this location was of the same architectural form as other residential blocks on the remaining parts of the site subject to the detailed planning permission with the same approach to the roofscape, to breaking up the massing and detailing, which, it was considered, reflected the finer grain of the Conservation Area. The proposed replacement building differs from that approach, driven by its use and office floorplates as opposed to residential floorplates and accordingly, the proposed building is more uniform in its outline, detailing and by the combination of height and uniformity results in a somewhat conspicuous block, with mass rising against its more varied neighbours and immediate surroundings. This is particularly the case when considering views along Framwelgate Peth and from across the River Wear where views from Freemans Reach and Walkergate allow the development to be read as one and the sense of what is already a conspicuously large-scale scheme would be emphasised.
121. When considering the proposals in respect of the impact on views/ setting of the WHS these are primarily transient views along Framwelgate Peth that, when assessed against the previous scheme, appear slightly less considered, primarily in respect of the lack of streetscape integration and the blocking impact towards the Cathedral is worsened by the increased massing of the office block. The proposal would, therefore, cause a minor degree of harm to the setting of the WHS.
122. Historic England considers that the proposal represents a weakening of the design ethos that underpinned the consented scheme that sought to balance its scale with references to the pattern of Durham's historic town buildings. This proposal uses some of those references but the more uniform appearance and height ensures that the overall effect would be a negative one. This is a view shared by the Design and Conservation Officers. Consequently, it is considered that the proposals would have a negative, albeit minor adverse impact on the significance and character and appearance of the Conservation Area.
123. Historic England suggest that the viability of reducing the height of the proposal is considered in order to produce a more harmonious appearance within the Milburngate redevelopment. Likewise, Design and Conservation Officers advise that, should the opportunity arise, the re-masterplanning of the site, including the relocation of this block, to a less sensitive location should be undertaken. Through pre-application

discussions, the applicants have already reduced the height of the building. They have advised that a further reduction in the height of the building and in turn the significant loss of office floorspace would be likely to significantly limit their ability to attract future occupiers of the building based on existing market evidence and ongoing enquiries for new office floorspace in Durham city centre. In terms of locating the office block within another part of the site where it benefits from outline planning permission for office use, the applicants have advised that it would not be a practical or feasible option. Key reasoning provided by the application is that this would require an alteration in the construction sequencing of the development and would effectively sterilise parts of the site as a result. Related to this there would be issues in relation to the construction processes and those elements of the site which would be operational such as sections of the car park and servicing elements of the development and the logistics of managing public access having regards to health and safety.

124. Accordingly, the planning application must, therefore, be judged on the merits of the proposal as it stands.
125. The proposed development would cause a minor degree of harm to the setting of the World Heritage Site and would not preserve the character and appearance of the Conservation Area, which in NPPF Part 16 terms, would be a less than substantial degree of harm. Such harm to designated heritage assets would bring the proposal into conflict with relevant CDLP Policies. CDLP Policy E3 sets out that the WHS and its setting will be protected by restricting development to safeguard local and long distance views to and from the cathedral and castle, while Policies E6 and E22 seek to ensure that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced. Both the Castle and Cathedral ranges are individually listed as well, so the harm to the setting of the WHS is considered to extend to harm to the setting of the Castle and Cathedral as listed buildings. This would bring the development into some conflict with CDLP Policy E23.
126. The NPPF advises that the weight to be afforded to policies adopted prior to the publication of the NPPF should be attributed according to their degree of consistency with the NPPF. Paragraph 196 of the NPPF sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. No such balancing exercise against public benefits is contained within CDLP Policies E3, E6, E22 or E23. Accordingly, the policies are considered to not be wholly consistent with the NPPF and the weight to be afforded to them is only limited.
127. Reverting back to the NPPF paragraph 11(d) planning balance, the guidance at paragraph 196 of the NPPF represents a policy which protects assets of particular importance. Therefore, it is necessary to establish whether the public benefits of the proposal outweigh the less than substantial harm to the designated heritage assets. If these public benefits are not established then this suggests that there is clear reason to refuse the development on these heritage grounds. This planning balance exercise is undertaken later in the report.

Highway Safety/Issues

128. Under this application for the revised Block 1e proposal no amends are proposed to the access and parking arrangements for customers/visitors and staff. The main access to the public car park proposed under the wider redevelopment would remain off Framwelgate Waterside at the riverside level. It should be noted that separately under the currently pending application DM/18/00896/VOC amends are proposed to access arrangements for the wider development and that application should be referred to for the detail.

129. The car park proposed beneath podium level is proposed to serve the development as a whole and it would form another city centre car park which would be available for use by visitors to not only this development, but the city centre more widely and indeed, conversely, visitors to this development could park elsewhere in the city centre.
130. The application is accompanied by a Transport Statement (TS) and amongst the details contained therein is a comparison of the vehicular trips pursuant to the office block proposed as oppose to the consented residential block. This demonstrates that in overall terms the AM and PM peak trips associated with the office would be higher than the residential use. The TS then presents the outcome of the modelling of these trip increases and considers the impact upon the highway network to be acceptable.
131. In response to the proposed change to Block 1e from predominately residential occupation to office, the Highway Authority have raised no objections including in respects to the submitted TS analysis whilst no specific amends to the car parking including any requirement to increase parking provision are made. The Highway Authority do highlight that there must be control on the operation of the car park via the amended access arrangements from Framwelgate Peth, a matter discussed in more detail under the application seeking those amends (DM/18/00896/VOC).
132. Overall, no objections are raised to the development on highways related grounds, with the development considered compliant with relevant sections of CDLP Policies T1, T19, T20, T21, Q1, Q2 and Q7. These policies are considered fully consistent with the NPPF and all can be afforded weight in the decision making process. CDLP Policy T10 is also applicable to the site and relates to parking provision. Policy T10 seeks to minimise the level of provision which is considered contrary to the more up to date approach advocated by national guidance and as a result very little weight is attributed to this policy. The development is considered compliant with key relevant sections of the NPPF namely Part 9.

Residential and Occupier Amenity

133. Within the approved wider redevelopment proposals key issues for consideration related to amenity were; air quality implications; lighting impacts; implications of nuisances arising from construction activities; noise and vibration and the potential for disturbances arising from the mixture of uses; odour; contamination; and whether adequate separation between buildings remains having regards to privacy, outlook and light. Subject to conditions as necessary, no objections were raised having regards to these factors.
134. In regards to air quality, Environment, Health and Consumer Protection have raised no objections to the proposed revisions to Block 1e. In respects to the construction phase of the development it is advised that as dust emissions may impact upon sensitive receptors in the surrounding area a condition would be required in the event of an approval to agree a dust action plan. HDV movements associated with the development would be another potential source of air pollution within the construction phase of the development. Under the existing planning permission it was necessary to apply a condition (no 6) which required full details of the number and routing of HDV movements and as necessary submission of further air quality assessment and mitigation measures. Whilst further details in respects to the movements pursuant to this Block 1e development have been supplied in this regard some details remain outstanding and thereby a condition to the same effect would be necessary. In respects to the operational phase of the development Environment, Health and Consumer Protection originally raised some queries in respects to further information on the potential for cumulative impacts with other City Centre development. Clarity

has been provided in this regard, partly via further clarity of the traffic flow information which feeds into the transport submissions and a further air quality addendum. No objections have been raised in response by Environment, Health and Consumer Protection who conclude that the impacts of the revised proposals in comparison to that consented would be insignificant.

135. Under the wider redevelopment proposals Environment, Health and Consumer Protection concluded that it was unlikely that the proposals pose any significant concerns in relation to impacts upon neighbouring occupiers. However, it was advised that final lighting proposals be controlled under condition. The current application is accompanied by a lighting assessment note which advises that the lighting assessment conclusions which accompanied the approved application remain valid and a revised lighting strategy providing concept lighting designs of the revised Block 1e has also been submitted. Environment, Health and Consumer Protection have raised no issues with the application in this regard with no concerns expressed in regards residential amenity. However, so as to control the final detail of the lighting scheme and consistent with the wider existing planning permission it is considered that the final design should be agreed under condition.
136. The originally approved application was accompanied by a noise report, the scope of which was to determine the existing noise climate at the site at nearby noise sensitive receptors, to assess the suitability of the site for the proposed development having regards to potential impacts on nearby occupiers and to identify any potential constraints to the development due to noise exposure or emissions from the site. Existing noise is generally dominated by the traffic on Framwelgate Peth and Leazes Road/Milburngate Bridge whilst any implications of an increase in traffic as a result of the development upon this existing noise climate would be insignificant. As a result of the mixture of uses proposed within the wider redevelopment, there is the potential for the transfer of noise and vibration between the commercial units and residential units proposed. Proposed plant which could run 24hrs a day would be another source of noise. Consideration was also given the potential impacts of the comings and goings at the wider site due to the range and mix of uses including food, drink and cinema use which could entail late night opening.
137. This current application is accompanied by an updated noise assessment to reflect the revisions to the Block. Environment, Health and Consumer Protection have raised no objections to the submitted report or the revised Block 1e proposals in regards to noise. However, it is advised that conditions so as to control plant noise and sound insulation and tenant management measures would be required, the latter specifically because of the inclusion of a D2 use within the development which can contain more noisy activities and impacts. Officers concur with these views and the necessary conditions can be added to any planning permission.
138. The proposed A3 food and drink use could potentially create odours from cooking and it is considered control over final extraction proposals to mitigate this would be necessary, again this consistent with the approach taken on the existing planning permission.
139. It is noted that the Police Architectural Liaison Officer has raised comments highlighting that mixed use development can affect residents that reside therein though disturbance impacts and the like. This was a matter that required consideration in relation to the wider development as a whole at the time of the grant of planning permission. Consistent with the approach taken under the original planning permission a condition can added to any planning permission requiring agreement to be reached on the opening hours of the proposed food and drink uses and assembly and leisure uses (A3 and D2 classes).

140. In relation to the construction phase of the development the application is accompanied by a construction management plan. However, Environment, Health and Consumer Protection confirm that whilst it establishes principles in regards to construction phase management more details are required. As per the existing planning permission a condition can be added to require a final construction management plan to be agreed.
141. In regards to the layout of the development and potential for any harmful privacy, loss of outlook or light, the layout of the block and its overall scale and location of windows is similar to the Block 1e building previously approved. Its relationship with neighbouring land uses and occupiers, both existing off-site and proposed within the wider on-site redevelopment, would also be commensurate with that approved. The western elevation of the revised Block 1e would be approximately 30m from the nearest property at Highgate on the opposite side of Framwelgate Peth and properties on Highgate would be closest and most affected by the presence of the build.
142. Within the parts of the site with detailed planning permission the distance between the proposed Block 1e and neighbouring Block 1d would be approximately 16m, and 10m to Block 1c albeit these blocks would be set at acute angles. To the north the outline phases of the development are situated and thereby layout submissions are indicative only in respects to both layout and dispersion of the proposed residential or office uses approved in principle on this part of the site. Based on the indicate layout the revised Block 1e would be located approximately 14m at the nearest point. These relationships are commensurate with the previous approval under which no objections were raised referencing that the City Centre is in part characterised by winding intimate streets.
143. With regard to the potential for site contamination, Environment, Health and Consumer Protection officers raise no objections but state that a condition should be added to any planning permission requiring the submission of a Phase 4 verification report. A condition has been part discharged in this regards to site contamination pursuant to the approved demolition under planning permission DM/15/1119/FPA. There is a requirement for the applicant to discharge that condition in full through the submission of a phase 4 verification report in order to confirm the remediation strategy has been completed. The requirement to fully discharge this condition on DM/15/01119/FPA applies irrespective of this application and there is no requirement to repeat the condition on any planning permission for this development.
144. In conclusion, no objections are raised to the development in relation to the range of potential amenity impacts which could emerge from the development, subject, as necessary, to conditions. The proposals are considered in compliance with relevant CDLP Policies H13, Q1, Q7, U5, U7 and U11 in this regard and Part 15 of the NPPF. These CDLP Policies are considered fully (remaining policies) consistent with the NPPF and can be attributed weight in the decision making process.

Flood Risk and Drainage

145. The Milburngate House site is located adjacent to the River Wear and the site has a history of flooding. The originally approved wider redevelopment proposal was accompanied by an ES chapter on flood risk and hydrology and associated enclosures including a flood risk assessment (FRA). It was noted under that application that in relation to the wider redevelopment site the north western area lies within Flood Zone 1 (low flood risk probability). Parts of the western and southern section of the wider site lie within Flood Zones 2 (medium flood risk probability) with the eastern part of the site being within Flood Zone 3. Flood Zone 3a has a high flood risk probability and

Flood Zone 3b is the functional flood plain. The eastern part of the wider site is within Flood Zone 3b.

146. Under the original planning permission consideration of the sequential and exception flood risk tests was given. It was accepted that there was no reasonably available and sequentially preferable locations for the redevelopment. With regards to the exception test it was firstly accepted that the development provides the necessary wider sustainability benefits that outweigh the flood risk and secondly that the submitted FRA demonstrated that the development would be safe for its lifetime taking account of the vulnerability of its users and that no increase in flood risk elsewhere would occur.
147. The key flood risk mitigation measures incorporated into the overall development were to ensure that all of the uses other than water compatible elements and the cinema are located at the top of a platform set at a minimum level of 33.5m AOD. This minimum finished floor level of 33.5m AOD is above the 1% probability event (1 in 100 year) event and includes appropriate allowances for climate change. Also, as mitigation, floodplain storage would be provided to ensure that the current volume of floodplain is maintained.
148. The flood risks associated with just the Block 1e revisions under this application are less complex in the sense that the amendments proposed in the main affect the development from level 03 upwards, well above the 1% probability event (1 in 100 year) (including appropriate allowances for climate change). The Environment Agency have raised no objections to the development subject to a condition requiring the FRA mitigation measures to be implemented/adhered to.
149. In regards to surface water disposal, proposals for the wider drainage strategy for the site would entail discharge into the River Wear with restriction on the discharge rate. The use of soakaways (more preferable in the surface water disposal hierarchy) were considered unsuitable due to the ground conditions. Foul water flows for the wider development would be discharged into the main sewer.
150. The proposed amendments to the Block 1e building would not alter the principles of the surface water and foul water disposal and peak foul flow disposal from the proposed office block would be no higher than previously calculated for a residentially occupied block.
151. Neither Northumbrian Water nor Drainage and Coastal Protection raise objections to the development in regards to the drainage proposals for the development.
152. No objections are raised to the development on flood risk and drainage grounds with the development considered compliant with CDLP Policies U8a, U9 and U10 which are considered either fully (Policy U8a) or partially (Policies U9 and U10) consistent with the NPPF and can be attributed weight in the decision making process. The proposal is considered to accord with Part 14 of the NPPF

Ecology

153. The approved wider redevelopment application was accompanied by a phase 1 habitat survey, bat method statement, bat emergence surveys and a biodiversity statement. Those submissions built upon ecological submissions which accompanied the previously approved application for demolition of Milburngate House and the ecological documentation has been submitted again under this current application.
154. With regards to designated sites of nature conservation interest local wildlife and nature reserve sites within 1km of the application comprise of Flass Vale, Hopper's

Wood, Frankland Pond, Pelaw Wood, Houghall, Maiden Castle and Little Woods. No statutory designated sites are located within 1km of the site.

155. The surveys undertaken did not find any protected species on site, other than nesting birds and recommendations were included to ensure that birds were not adversely impacted upon by the proposed demolition works. Some loss of foraging habitat for badgers and hedgehogs were also identified to occur and again mitigation measures so as to control when vegetation can be removed from the site were recommended.
156. Although no bats were seen emerging from the building during the bat emergence surveys, the potential for bats to use some of the external structures of the building as roost sites was noted. In order to mitigate the impact on bats, a method statement was devised and trees to be lost as a result of the redevelopment would be visually inspected before they were felled. The impact of lighting was considered and it was concluded that the proposed development would not significantly exceed existing levels and it is unlikely that there would be any significant impact on the use of the River by foraging bats and other river wildlife.
157. The proposed amends to the Block 1e building raise no new ecological considerations and Ecology have raised no objections to the development. The concerns of Durham Bird Club are noted and in response the applicant has confirmed that final landscaping proposals are being devised with ecological input in regards to planting species and the provision of bird boxes are proposed within the development so as to attract bird species.
158. No interference with protected species is identified as a result of the development. No European Protected Species Licence is, therefore, considered to be required as a result of the development, having regards to the requirements of the Habitats Directive brought into effect by the Conservation of Habitats and Species Regulations 2017.
159. In terms of ecological and biodiversity issues, it is considered that there would be no overall adverse impacts. No objections to the application on ecological or nature conservation grounds are raised, with the development considered to accord with CDLP Policy E16 (fully consistent with the NPPF) and Part 15 of the NPPF.

Viability and Planning Obligations

160. As this planning application relates to the provision of an office and A1-A3 and D2 commercial units, the requirements to provide some planning obligations via S106 legal agreement do not apply. No affordable housing or off-site contribution towards open space and recreation facilities are required for the proposed uses.
161. However, the wider redevelopment does propose residential units where obligations in relation to affordable housing and monies towards open space and recreation would ordinarily be required to mitigate the impacts of the development. Following an assessment of development viability, which included the Council employing two independent consultants to appraise viability issues, it was accepted that the viability of the wider redevelopment was marginal and, as a result, affordable housing provision and open space/recreation provision was not sought at that time. However, so that the Council could retain the ability to review the viability of the site in the future a S106 legal agreement was entered into which included obligations that at certain trigger points, viability reviews would be required. If it was demonstrated that the applicants profit exceeded a certain level then 50% of that surplus would be required to be paid to the Council for the provision of affordable housing and/or open space and recreation provision.

162. Whilst the planning obligations are not required by this development as such, the amended proposal would form part of the wider redevelopment site and it is considered necessary to enter into a Deed of Variation of that legal agreement so that it reflects the most up to date mixture of uses proposed and that those viability review obligations should apply to this new planning permission
163. CDLP Policy Q15 seeks to encourage the provision of artistic elements in the design and layout of proposed development. Where such elements are not proposed again a financial contribution in lieu of this would be expected.
164. Planning obligations ensured via a S106 legal agreement should be; necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. In this instance public art provision is not necessary to make the development acceptable.

Other Issues

165. In regards to matters of land stability and coal mining legacy issues, the Coal Authority have raised no objections to the development and require no conditions. The proposals would therefore accord with CDLP Policy U13 (NPPF compliant) and Part 15 of the NPPF.
166. The application includes an energy report detailing the energy strategy for the development and confirms a fabric first approach to energy reduction. Key elements include the provision of high efficiency air handling plant (AHUs). No objections to the development raised having regards to CDLP Policy U14 on energy conservation (fully consistent with the NPPF).
167. The Town and Country Planning (General Permitted Development) (England) Order 2015 permits, subject to conditions in some instances, a number of changes of use which can be undertaken to those uses proposed within Block 1e without the requirement of planning permission. It is considered that should some of these changes of use occur within the development planning impacts of a material nature could occur. So as to enable the LPA to fully consider the impacts of such changes occurring at the site it is considered appropriate that these permitted development rights be removed under condition on any approval. The changes of use which it is considered should be removed so as to enable future consideration are;

Retail or betting office or pay day loan shop to mixed use

Business use to Storage and Distribution

Business to state-funded schools or registered nursery

168. The Employability Team request that targeted recruitment and training clauses are included within any S106 legal agreement. It is considered that this matter can be covered under condition.

CONCLUSION

169. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

170. The NPPF advises that weight to local plan/development plan policies adopted prior to the publication of the NPPF (in its revised form) should be attributed according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Equally, however, where evidence which has informed the content of the policy is out of date this can also be a reason to conclude the policy is out of date.
171. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development and this is detailed at paragraph 11
172. In this instance policies within the CDLP most relevant for determining the application are out-of-date. As a result paragraph 11(d) of the NPPF applies which states;
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
173. Having regards to the planning assessments above there are NPPF policies which protect assets of particular importance which apply to this case in terms of designated heritage assets.
174. The development causes less than substantial harm to designated heritage assets (Castle and Cathedral WHS inclusive of their listed building status and the Durham (City Centre) Conservation Area). As a result, Paragraph 196 of the NPPF advises that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
175. Great weight should be given to the asset's conservation and the more important the asset the greater the weight should be. The less than substantial harm would include harm to an asset of the highest significance in the WHS.
176. In terms of the public benefits, when considering the minor degree of harm to the setting of the World Heritage Site, Historic England and Design and Conservation Officers consider that any harm in views to the WHS is offset by the creation of new views from within the site. The opportunity to better reveal the significance of assets through new views in this way is considered a public benefit sufficient to outweigh the identified harm to the WHS and the Castle and Cathedral as listed buildings.
177. The harm to the significance and in turn the character and appearance of the conservation area is greater, albeit still minor, and less than substantial overall. In support of their application, the applicants have identified a number of public benefits that would be delivered by the development and which, in their view, would outweigh the identified harm. Of those identified, Officers consider that the following factors would amount to public benefits that would be delivered by the scheme:
- The office will assist in the delivery of £160m additional inward investment in the area as part of the wider Milburngate scheme;
 - Creation of high quality office space in a city centre location;

- Create up to 53 direct jobs and 48 indirect jobs during construction;
- Creation of approximately 416 FTE jobs once operational;
- Contribute to the regeneration of the wider Milburngate site;
- Bring further footfall to the consented scheme and the city, which could provide a boost for existing businesses in the city as well as the potential to attract new businesses;
- Increased spending within the city;
- Creation of new views;
- Deliver a key axial link, providing a direct route from Framwellgate Peth to the heart of the site then through to the riverside and City beyond;
- Delivery of the public square at the centre of the wider Milburngate site, which will provide a landscaped space for users to relax and enjoy views of the historic city.

178. Whilst some of the public benefits cannot in themselves be afforded significant weight, it is considered that, in particular, the opportunity to create a significant new employment opportunity for up to 416 employees in a highly accessible location should be afforded significant weight. Accordingly, it is considered that the public benefits that would arise from the development are sufficient, cumulatively, to outweigh the identified degree of harm to the designated heritage assets in the context of Paragraph 196 of the NPPF.

179. In terms of limb ii of Paragraph 11(d), there is the requirement to consider whether any adverse impacts overall would significantly and demonstrably outweigh the benefits. In this case it is considered that the identified adverse impacts from the development would not significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole. Accordingly, and having regards to all material planning considerations including comments raised in the public consultation exercise, it is considered that the proposals are acceptable and approval is recommended as a result.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the following:

- i) A Deed of Variation of the S106 legal agreement pursuant to planning permission DM/16/01228/FPA so that the viability review obligations in respects to affordable housing and open space and recreational space contributions reference this revised development under DM/18/02924/FPA

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 not be occupied until the structure of the podium, car parking provision, plant, core, circulation and servicing areas at levels B1, 00 and 01 (the development podium / platform) as defined on drawings 2962-FBA-00-B1-DR-A-00_10-0B100 Rev P1.1, 2962-FBA-1A-00-DR-A-00_10-1A000 Rev P4, 2962-FBA-00-00-DR-A-00_10-00000 Rev P1.2 and 2962-FBA-00-01-DR-A-00_10-00100 Rev P1.2 are completed to a point that the Block 1e building can be adequately serviced

and in accordance with a Schedule of Works which must first have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (with the exception of demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting steel frame at levels B1, 00 and 01 inclusive).

Thereafter the development must be completed in accordance with the approved Schedule of Works.

Reason: To ensure that necessary supporting infrastructure and development to serve the development hereby approved is implemented prior to the commencement of the development hereby approved having regards to CDLP Policies E3, E6, E10, E14, E15, E16, E21, E22, E23, E24, H13, EMP12, T1, T19, T20, T21, S1A, S10, CC1, Q1, Q2, Q4, Q5, Q6, Q7, Q8, U5, U7, U8A, U9, U10, U11 and U14 and Parts 2, 4, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the NPPF.

3. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents and any recommendations, mitigation measures and adherence to parameters contained therein:

Plans:

3503_FBA-00-00-DR-A-05_10_300 REV P4 MASTERPLAN – 1E SITE BOUNDARY PLAN
3503-FBA-00-00-DR-A-05_10_104 P4 1E OFFICE LOCATION PLAN
3503-FBA-00-10-DR-A-05_10-1000 P4 SITE PLAN
3503-FBA-00-03-DR-A-05_10-301 P3 SITE PLAN LEVEL 03
3503_FBA-00-03-DR-A-00_00_300 P3 LEVEL 03 GA FLOOR PLAN
3503-FBA-00-04-DR-A-00_00_400 P3 LEVEL 04 GA FLOOR PLAN
3503_FBA-00-05-DR-A-00_00_500 P3 LEVEL 05 GA FLOOR PLAN
3503-FBA_00_06_DR_A_00_00_600 P3 LEVEL 06 GA FLOOR PLAN
3503-FBA-00-07-DR-A-00_00_700 P3 LEVEL 07 GA FLOOR PLAN
3503_FBA-00-08-DR-A-00_00_800 P4 LEVEL 08 GA FLOOR PLAN
3503-FBA-00-10-DR-A-00_00_900 P4 ROOF LEVEL GA FLOOR PLAN
3503-FBA-00-XX-DR-A-00_00_70 P3 GA SECTION 01
3503-FBA-00-XX-DR-A-00_00_71 P3 GA SECTION 02
3503-FBA-00-XX-DR-1-00_00_72 P3 GA SECTION 03
3503-FBA-00-XX-DR-A-00_00_73 P3 GA SECTION 04
3503-FBA-00-XX-DR-AA-00_00_63 P3 SITE ELEVATIONS NE AND E1
3503-FBA-00-XX-DR-A-00_00_62 P3 SITE ELEVATIONS NORTH AND SOUTH
3503-FBA-00-XX-DR_A-00_00_61 P3 SITE ELEVATIONS EAST AND WEST
3503-FBA-00-XX-DR-A-00_00_55 P4 PROPOSED WEST ELEVATION
3503-FBA-00-XX-DR-A-00_00_53 P4 PROPOSED SOUTH ELEVATION
3503_FBA-00-XX-DR-A-00_00_52 P4 PROPOSED EAST ELEVATION
3503-FBA-00-XX-DR-A-00_00_50 P4 PROPOSED NORTH ELEVATION
3503-FBA-00-XX-DR-A-00_00_51 P4 PROPOSED NORTH ELEVATION (TRUE)
3503-FBA-00-XX-DR-A-00_00_01 P3 SITE SECTION A AND B
MBG-COL-1E-XX-DR-L-1006 P2 LANDSCAPE MASTERPLAN BLOCK 1E
2962-FBA-00-B1-DR-A-00_10-0B100 REV P1.1 PROPOSED LEVEL B1 GA MASTERPLAN
2962-FBA-00-00-DR-A-00_10-00000 REV P1.2 PROPOSED LEVEL 00 GA MASTERPLAN
2962-FBA-00-01-DR-A-00_10-00100 REV P1.2 PROPOSED LEVEL 01 GA MASTERPLAN
AIA TPP PHASE 1 DEMO-SOUTH REV A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)

AIA TPP PHASE 1 DEMO-NORTH REV A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1
AIA TPP PHASE 1 CONS-SOUTH REV A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)
AIA TPP PHASE 1 CONS-NORTH REV A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)

Documents:

ES APPENDIX 10.1 FLOOD RISK ASSESSMENT AUGUST 2016
ES APPENDIX 10.1 FLOOD RISK ASSESSMENT MODELLING APPENDIX B
ES VOL 1 FLOOD RISK AND HYDROLOGY MITIGATION MEASURES DETAILED AT 10.83 – 10.97
ES VOL 1 LIGHTING MITIGATION MEASURES DETAILED AT 12.75 – 12.81
WSP MILBURNGATE – BLOCK 1E FULL PLANNING APPLICATION FLOOD RISK ASSESSMENT
ADDENDUM TO ENERGY STATEMENT FOR BLOCK 1E OFFICE 07 SEPTEMBER 2018 REV 4.0
MILBURNGATE HOUSE BLOCK 1E AIR QUALITY ASSESSMENT 11 SEPTEMBER 2018
MILBURNGATE BLOCK 1E NOISE IMPACT ASSESSMENT 5 SEPTEMBER 2018
ATKINS DRAINAGE STRATEGY ADDENDUM (1A) 29 AUGUST 2018
ES APPENDIX 10.2 DRAINAGE STRATEGY
BAT METHOD STATEMENT MAY 2016
EXTENDED PHASE 1 REPORT APRIL 2015
ES VOL 2 AMENDED APPENDIX 3.1 SCHEDULE OF DEVELOPMENT V9 (REVISED JUNE 2018)
ARBORICULTURAL IMPACT ASSESSMENT REVISION A (INSOFAR ONLY TO THE TREE WORKS WITHIN ZONE 1 AS DEFINED ON DWG 2962-FBA-00-00-DR-A-05_10-115 REV P1)

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to CDLP Policies E3, E6, E10, E14, E15, E16, E21, E22, E23, E24, H13, EMP12, T1, T19, T20, T21, S1A, S2A, S10, R1, R2, CC1, Q1, Q2, Q4, Q5, Q6, Q7, Q8, U5, U7, U8A, U9, U10, U11 and U14 and Parts 2, 4, 6, 7, 8, 9, 11, 12, 14, 15 and 16 of the NPPF.

4. No development shall take place nor any site cabins, materials or machinery be brought on site until all trees and hedges agreed for retention within that Zone as detailed within the associated drawings AIA TPP Phase 1 Demo-South Rev A, AIA TPP Phase 1 Demo-North Rev A, AIA TPP Phase 1 Cons- South Rev A and AIA TPP Phase 1 Cons-North Rev A and as referenced within the Arboricultural Impact Assessment Revision A are protected in accordance with the protection measures proposed within those approved documents and in accordance with BS 5837:2012. The protection measures shall remain in place until the cessation of the development works.

Reason: In the interests of tree protection and visual amenity having regards to CDLP Policies E6, E14, E15, E22, Q5, Q6, Q7 and Q8 and Parts 12, 15 and 16 of the NPPF.

5. No development other than demolition shall take place until the following has been submitted and approved in writing by the Local Planning Authority;
 - i) Full details of the number and routing of all Heavy Duty Vehicle (HDV) necessary to implement the construction of the development. The details submitted shall also confirm the hours of the HDV movements and confirm that they shall be scheduled outside of the AM and PM peak traffic periods.

If following an assessment of the information submitted under i) the Local Planning Authority confirm that the potential impacts of HDV movements necessitate the submission of an Air Quality Assessment (AQA) (or amended AQA) the applicant shall submit said assessment.

No development shall then commence until, the submitted AQA (where submission is necessary) has been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details including any mitigation measures.

Reason: In the interest of reducing impacts upon air quality having regards to CDLP Policy U5 and Part 15 of the NPPF. Required to be a pre-commencement condition as impacts of construction activity upon air quality must be assessed before construction works commence.

6. No development shall take place until a Construction Management Plan (CMP) has been first submitted to and approved in writing by the Local Planning Authority. The CMP shall consider the potential environmental impacts (noise, vibration, dust & light) that the construction phase may have upon any occupants of nearby premises and shall detail mitigation proposed. This shall but not necessarily be restricted to:
- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction February 2014
 - An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 Code of practice for noise and vibration control on construction sites 2014.
 - Where it is necessary to undertake piling on the site details shall be provided justifying the method of piling used so as to minimise disturbance, from noise and vibration, to the occupants of nearby premises.
 - Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.
 - Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.
 - Details of vehicular routes, accesses and any highway management measures proposed.

Thereafter the development shall be carried out in accordance with the approved CMP.

Reason: In the interests of preserving residential amenity during the construction phases of the development having regards to CDLP Policies U5 and T1 and Part 15 of the NPPF. Required to be a pre-commencement condition as impacts of construction activity upon air quality must be assessed before construction works commence.

7. No works other than demolition, preliminary site excavation, enabling and remedial works shall take place until an Employment & Skills Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved Employment & Skills Plan.

Reason: In the interests of building a strong and competitive economy in accordance with Part 6 of the NPPF.

8. Notwithstanding details contained within the plans and documents, no development other than, preliminary site excavation, enabling and remedial works shall take place until a final scheme of pedestrian and cycling provision by means of a footpath/cycle path and any associated verges, landscaping and enclosures on those sections of Framwelgate Peth which are within the red line site boundary (as defined on 3503-FB-00-00-DR-A-05_10_104 Rev P4 1E Office Location Plan) has been submitted to and approved in writing by the Local Planning Authority. The details submitted shall include details on the timescale of the provision of the pedestrian and cycling provision.

Thereafter the pedestrian and cycling provision shall be carried out in accordance with the approved details.

Reason: In the interests of integrating sustainable transport measures into the development having regards to CDLP Policy T20 and Part 9 of the NPPF.

9. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame shall take place until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include the following:

- Details of soft landscaping including plant species, sizes, layout, densities, numbers;
- Details of planting procedures or specification;
- Finished topsoil levels and depths;
- Details of temporary topsoil and subsoil storage provision;
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- Details of hard landscaping and public realm works; and
- Details of means of enclosure, including retaining walls;
- Details of the long term management proposals including measures to ensure the replacement of trees or plants which die, fail to flourish or are removed and details of timescales of the implementation of the landscaping proposals shall also be submitted.

Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity having regards to CDLP Policies E6, E14, E15, E22, Q5, Q6 and Q7 and Parts 12 and 15 of the NPPF.

10. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame shall take place until full details including samples and sample panels of all external materials to be used in the development have been submitted to and approved by the Local Planning Authority. Thereafter the development must be carried out in accordance with the approved details.

Reason: In interests of visual amenity and preserving the character, appearance and setting of heritage assets having regards to CDLP Policies E3, E6, E21, E22, E23 and Q7 and Parts 12 and 16 of the NPPF.

11. Notwithstanding details submitted within the submitted plans and documentation no development other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame shall take place until an advertisement and signage strategy for the development has been submitted to and approved by the Local Planning Authority.

Reason: So as to ensure that that the approach to advertisements and signage within the development is sympathetic to its location and so as to preserve the character, appearance and setting of heritage assets having regards to CDLP Policies E3, E6, E21, E22, E23 and Q7 and Parts 12 and 16 of the NPPF.

12. Notwithstanding the details contained within the submitted plans and documents no development other than demolition, preliminary site excavation, enabling and remedial works shall take place until final and precise design details of the proposed pedestrian route leading from Framwelgate Peth as discussed under section 3 "Stepped Access from Framwelgate Peth" of the Landscape and Public Realm Addendum Ref. L-1953-DOC-001 have been submitted to and approved in writing by the Local Planning Authority. As necessary the submissions must include the submission of additional arboricultural assessment, tree retention/tree removal plans, tree method statements and tree protective measures/plans to inform upon and facilitate the works. Thereafter the route must be constructed in accordance with the approved details.

Reason: In the interests of visual amenity and to define the design solution of the stepped access feature having regards to CDLP Policies E6, E22, Q1, Q2 and Q4 and Parts 12 and 16 of the NPPF.

13. No development works other than demolition, preliminary site excavation, enabling and remedial works, the building of foundations and the erection of any supporting structural frame to the building shall take place until a scheme of sound insulation and tenant management measures has been submitted to and approved in writing by the Local Planning Authority. The aim of the measures shall be to ensure that the tenants maximum operating noise limits, in conjunction with the sound insulation of walls, floors windows and ceilings between adjoining noise sources/external noise sources and separate/adjoining B1 use properties shall be sufficient that noise does not exceed NR 40, or otherwise adhere to the noise levels stated in the British Council for Offices guide 2009. The approved schemes shall be carried out prior to the occupation of the development and maintained thereafter.

Reason: In the interests of preserving the occupier amenity of site occupiers having regards to CDLP Policy U7 and Part 15 of the NPPF.

14. Prior to the occupation of any A3 unit, or that particular unit, details all plant, extraction and ventilation to be utilised within any A3 unit or that particular unit, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to the use commencing on any A3 unit or that particular unit and shall be operated at all times when cooking is being carried out on the premises.

Reason: In the interests of preserving the amenity of site occupiers having regards to CDLP Policy U7 and Part 15 of the NPPF.

15. Prior to the occupation of the development, a final external lighting scheme and associated lighting impact assessment shall be submitted and approved by the Local Planning Authority. This should include the following, commensurate with the scale/type of lighting scheme provided and having regards to the location of the site within Environmental Zone 3 in accordance with the Institution of Lighting Professionals Guidance on the Reduction of Obtrusive Light:

- A description of the proposed lighting units including height, type, angling and power output for all lighting
- Drawing(s)/contour plans showing the luminance levels both horizontal and vertical of the lighting scheme to demonstrate that no light falls into the curtilage of sensitive neighbouring properties;
- Details of the Sky Glow Upward Light Ratio, Light Intrusion (into windows of relevant properties) and Luminaire Intensity.

The limits for the relevant Environmental Zone relating to Sky Glow Upward Light Ratio, Light Trespass (into windows) and Luminaire Intensity, contained in Table 2 (Obtrusive Light Limitations for Exterior Lighting Installations) of the Institute of Lighting Professionals Guidance on the Reduction of Obtrusive Light shall not be exceeded.

Thereafter the development shall be carried out in accordance with the approved schemes and assessments.

Reason: In the interests of preserving residential amenity, preserving the character, appearance and setting of heritage assets and in the interests of conserving ecological assets having regards to CDLP Policies E3, E6, E16, E21, E22, E23, U7, H13 and Q7 and Parts 12, 15 and 16 of the NPPF.

17. Prior to the occupation of any unit to be utilised within the A3 or D2 use classes hereby approved details of the proposed opening/operating hours of the units shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the units shall operate in accordance with the approved details.

Reason: To define the consent and in the interests of residential amenity having regards to CDLP Policy U5 and Part 15 of the NPPF.

18. No plant shall be operated until a detailed noise impact assessment and scheme of sound attenuation measures has been submitted to and approved in writing by the Local Planning Authority. The scheme of attenuation measures shall ensure that that the rating level of noise emitted from plant at each location shall not exceed the noise levels stated below:

NSR Time Period Fixed Plant Noise Limit dB LAeq, T

1 - PRS block 1D and 1C Daytime (07:00 23:00) 62 dB

1 - PRS block 1D and 1C Night-time (23:00 07:00) 50 dB

2 Framwelgate Peth Daytime (07:00 23:00) 62 dB

2 Framwelgate Peth Night-time (23:00 07:00) 50 dB

3 - Radisson Hotel Daytime (07:00 23:00) 61 dB

3 - Radisson Hotel Night-time (23:00 07:00) 43 dB

The plant must be installed and operated in accordance with the sound attenuation measures.

Reason: In the interests of residential amenity having regards to CDLP Policy U5 and Part 15 of the NPPF.

19. Notwithstanding details contained within the plans and documents submitted, work shall not commence on the provision of the proposed signalised junction on Framwelgate Peth until a detailed design has been submitted to and approved by the Local Planning Authority. The design shall include details of any highway works at or within the vicinity of the entrance to/egress from Highgate. The submitted details shall include timescales as to when the highway works and signalised junction provision shall be implemented.

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

Reason: In the interests of highway safety having regards to CDLP Policy T1 and Part 9 of the NPPF.

20. The development hereby approved shall not be occupied until details of an operational strategy for the proposed Framwelgate Peth signalised access junction has been submitted to and approved in writing by the Local Planning Authority. Thereafter the signalised junction shall be operated in accordance with the approved details.

Reason: In the interests of highway safety having regards to CDLP Policy T1 and Part 9 of the NPPF.

21. Within 6 months of occupation a Final Travel Plan, conforming to the National Specification for Workplace Travel Plans, PAS 500:2008, Bronze level, shall be submitted to and approved in writing by the Local Planning Authority. Once approved the Travel Plan must be complied with for the lifetime of the development.

Reason: In the interests of promoting sustainable travel options and reducing potential impacts upon air quality having regards to Parts 9 and 15 of the NPPF.

22. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated August 2016 FRA_002, the WSP Milburngate – Block 1E Full Planning Application Flood Risk Assessment and the following mitigation measures detailed within the FRA:

- Provision of compensatory flood storage as described in section 5.2.4, 5.2.5 and 6.3 of the FRA
- Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.
- Finished floor levels are set no lower than 33.5m above Ordnance Datum (AOD).

Reason: In the interests of flood prevention and so as to ensure safe access to and egress from and to the site having regards to CDLP Policy U10 and Part 14 of the NPPF.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any order revoking or re-enacting that Order, no changes of use permitted under Classes G, I and T of Part 3 under Schedule 2 shall be undertaken without the grant of further specific planning permission from the Local Planning Authority.

Reason: So that the Local Planning Authority can exercise further control in regards to the impacts of these changes of use.

24. No development works pursuant to the development hereby approved shall take place outside the hours of 7.30am - 6pm Monday to Friday (inclusive) and 8am - 1pm on a Saturday with no works on any Sunday or Bank Holiday.

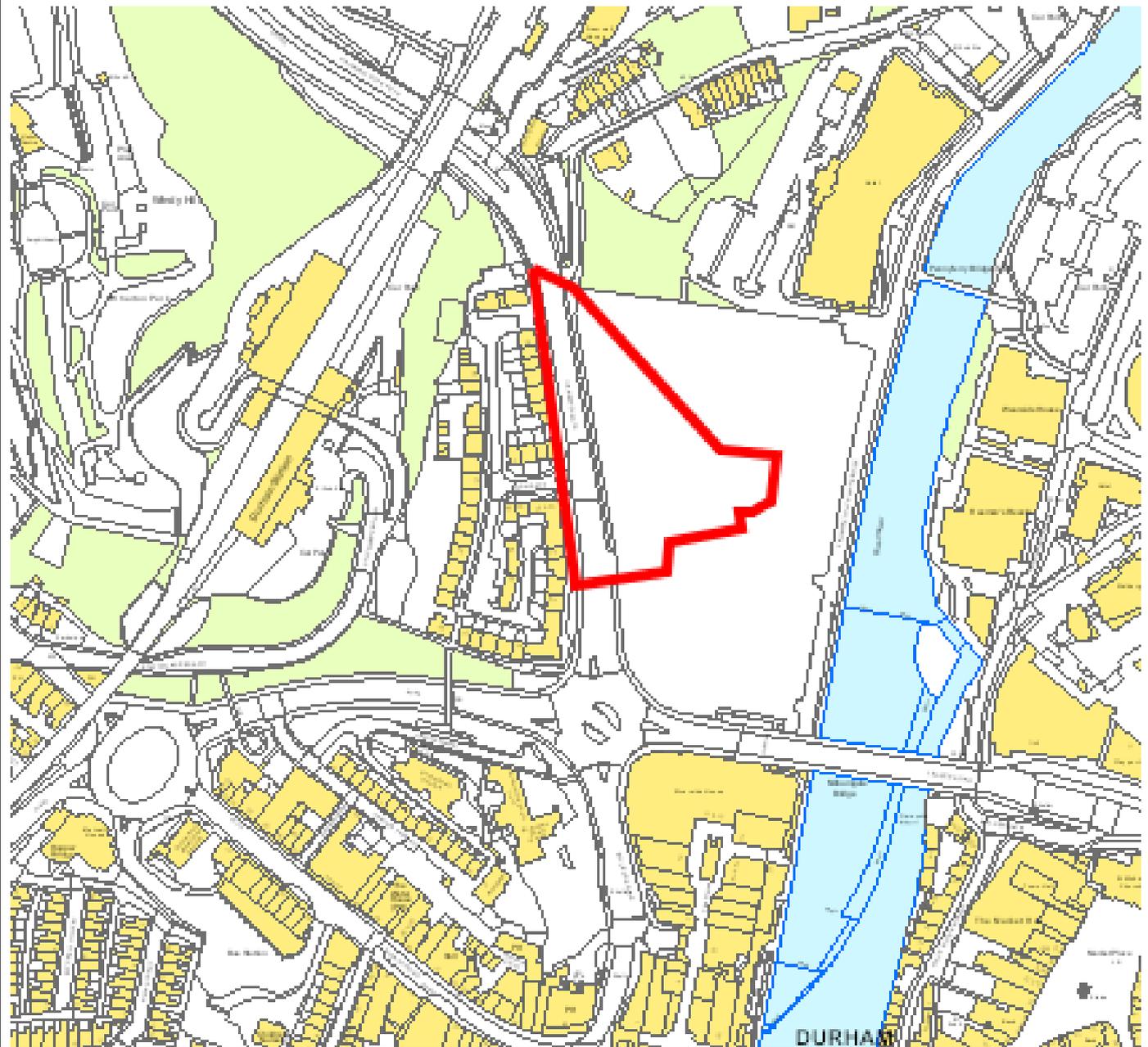
Reason: To define the consent and in the interests of the amenity of neighbouring occupiers having regards to CDLP Policy U5 and Part 15 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its recommendation to approve 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) 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
- National Planning Practice Guidance
- City of Durham Local Plan
- The County Durham Plan
- Statutory, internal and public consultation responses



Planning Services

DM/18/02924/FPA

Erection of office block (identified as Block 1E) (B1 use class) with flexible permission for shop, food and drink and assembly & leisure uses at ground floor level (Use Classes A1, A3 and D2) and associated public square and landscaping

MGH Card LLP

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Comments

Date
4th December 2018

Scale
Not to scale

