

THE CITY OF DURHAM TRUST

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The Rt Hon Robert Jenrick MP
Secretary of State for Housing, Communities and Local Government
2 Marsham Street
London
SW1P 4DF

Dear Secretary of State,

**Durham County Council planning application DM/20/01846/FPA
comprising 37,332 square metres of office floorspace, 1,136 square metres for ancillary
floorspace and car parking for 1,131 vehicles**

Durham County Council has referred to you its hybrid application DM/20/01846/FPA for office and ancillary development on land that it owns at Aykley Heads Durham City. The proposal comprises 37,332 square metres of office floorspace, 1,136 square metres of ancillary floorspace, and car parking for 1,131 vehicles.

The County Council has referred this hybrid application to you because of the outstanding objection by Sport England. In its note to the Council dated 1 December 2020, Sport England observes that *“Despite the fact that Durham County Council have known of Sport England’s concerns over the loss of sports facilities to development at Aykley Heads for over a decade, the issue has been dealt with as an afterthought in this application and this final consultation has been rushed.”*

Sport England will no doubt provide to you all the documentation underlying its objection; the correspondence with the County Council in the public domain gives a lamentable picture of Sport England’s having to correct Durham County Council’s misunderstanding of the Town and Country Planning (Consultation) (England) Direction 2009.

The City of Durham Trust, the local heritage and conservation body in Durham City since 1942, is of the view that, in addition to Sport England’s objection, there are many other aspects of the application that should lead you to determine that Durham County Council should not approve the application as it stands. We are therefore making the following representations to you.

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The Trust is doing so jointly with the City of Durham Parish Council, who will write to you confirming its endorsement of this letter.

The Trust takes the same view as Sport England that this hybrid application has been rushed. We hold that there is no need to couple together a detailed application for a single office block on Plot C with an outline application for the whole of the rest of the Aykley Heads Employment Site, since the whole site is formally allocated for office development in the newly adopted County Durham Plan, so in effect outline permission is superfluous.

The site is programmed to be developed out over the next 20 years, a period of unparalleled uncertainty. Instead of unnecessarily rushing to decision, brushing aside all the valid objections, it would be far better to proceed with a detailed application for Plot C alone, and spend a little time developing a proper Masterplan which would allow for better scoping of the uncertainties which the Examination in Public Inspector identified in his Final Report ¹ page 6, paragraphs 5 and 6.

As a result of Sport England's correct understanding of the Direction, the hybrid application stands unapproved and in your hands. The City of Durham Trust believes that, in addition to Sport England's objection, there are the following four grounds on which Durham County Council should not be permitted to proceed to approve this application.

Ground 1: the first office development, intended as a 'flagship' for the whole project, fails the sustainable development principles required by County Durham Plan Policies 3 and 29.

The ink on the County Durham Plan is scarcely dry and yet the County Council is within weeks proposing to approve its own application to erect an office building that fails the Plan's key sustainability policies.

Policy 3(h) on Aykley Heads requires any development to deliver attractive, well designed places incorporating sustainable development principles and construction methods.

Policy 29 on sustainable design requires all new developments to minimise greenhouse gas emissions by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation and requires the minimisation of the use of non-renewable and unsustainable resources during both construction and use. Policy 29 also requires that all new major non-residential developments achieve a BREEAM 'very good' standard as a minimum. There are no exceptions in Policy 29 to these requirements.

The County Planning Committee Report (paragraph 271) struggles with these requirements and concludes that Plot C cannot comply because it was designed prior to these requirements being adopted. This is nonsensical; the County Plan was submitted for Examination in April 2019; it is more demanding than earlier versions because it omits a 'get-out' clause about financial

¹ <https://www.durham.gov.uk/media/34071/County-Durham-Plan-Inspectors-Final-Report/pdf/InspectorsFinalReport.pdf?m=637388844171830000>

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constraints that the previous, aborted County Plan examined in 2014, had for its very similar Policy 16. The County Council has for the past two years proclaimed its zero-carbon commitment far and wide. It cannot claim to have only just discovered in October 2020 that Plot C should have been designed to BREEAM excellent or very good standards.

According to a recent press release² *"Over the last four years, [Durham County Council has] represented the UK in the international Renovation for Energy Efficient Buildings Scheme (REBUS), a project which brought together eight countries to exchange ideas on improving the energy efficiency of publicly owned buildings."* Plainly the Council should have included a requirement for energy efficiency in the design brief for its new building. The fact that it did not must not be an excuse to allow permission to be given to a sub-standard building.

Worse, the Planning Committee Report goes on (Paragraph 272) to say that *"It should also be noted that the development of Plot C is intended by the applicant to comprise a catalyst for the remainder of the development and is partially reliant upon a Local Enterprise Partnership grant for delivery. A redesign of Plot C in order to achieve BREEAM 'very good' certification could increase the risk of LEP funding timescales not being met."* This is appalling - if it is a catalyst and a flagship, setting the standard expected here, then it must be at BREEAM excellent or very good standards or subsequent developments will justifiably simply match the County Council's own inadequate sub-standard development on Plot C.

Your Department's guidance is clear and unequivocal on financial considerations: *"Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. **It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.**"* (our emboldening) (Guidance Paragraph: 011 Reference ID: 21b-011-20140612). It should not fall on the Trust or the Parish Council to have to spell out guidance that the Council's officers should have provided to the Committee.

Ground 2: there are significant adverse impacts on the Area of Greater Landscape Value and the Green Belt

The lifespan of large newer buildings in this part of Durham is only up to 70 years. This contrasts with the enormous economic benefit of the city's international profile based on the Durham Castle and Cathedral World Heritage Site (WHS) and its city centre. This has taken 1,000 years to develop but could be damaged very quickly by poorly thought out development.

The green setting surrounding the city centre and WHS is easily damaged by new buildings on view in it. On either side of the proposed new buildings the University Hospital of North Durham and the County Durham and Darlington Police Headquarters are very visible behind the WHS in views across the city. Because the new Aykley Heads buildings will also be on show they

² <http://durham.gov.uk/article/24742/Climate-response-plan-influenced-by-council-s-international-partnership>

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will all join up and cause harm to the setting of the WHS that cannot be undone.

The Green Belt encircling Durham City is particularly important in keeping the countryside on view and accessible from the built-up areas. The existing County Hall southern car park is an open, ground-level asphalted area and so has only a small impact and also is set down behind landscaping.

Building a three-storey office block on that car park (Plot A South) obviously causes much more damage to the view into the parkland area than the car park does. It would cut down the amount of green landscape separating the older historic area of the City centre from the newer areas towards Newton Hall. It would also radically intrude into the views of the city from the approaches via the A691 and the B6532.

The damage that would be caused by the development can be avoided by a development of lower buildings across the whole of the Aykley Heads site and by not building on the southern car park but instead simply 'greening' it. Landscaping alone cannot repair the damage that the three-storey office building would cause. Because this is the final plot proposed to be developed and is not scheduled for construction until 2040 when the world will probably be a very different place, removing this final development would not adversely affect to any concerning degree the benefits that the rest of Aykley Heads can deliver.

Ground 3: the outline application fails to demonstrate accordance with sustainable transport requirements set out in County Durham Plan policies 3, 21 and 22, and Durham City Neighbourhood Plan policy T1

This matter is of national significance because reducing transport-related greenhouse gas emissions is central to the UK's commitments under the Paris Agreement. Durham County Council has obtained very few sustainable transport improvements through the planning system and the Trust believes that the Council gives insufficient weight to this aspect of the National Planning Policy Framework (NPPF).

Before the February 2019 revision of NPPF, planning applications could only be refused on transport grounds if the cumulative residual impact was severe or the effect on highway safety was unacceptable. Many transport consultants and planning authorities, including Durham County Council, took this as an overriding condition which largely nullified the sustainable transport aspects of the NPPF. The revision changed the word "transport" to "highways" to clarify that applications may be refused on wider transport grounds, including walking and cycling accessibility, even if there is expected to be little impact on road safety or congestion. The Planning Committee Report (para. 227) uses the old wording and accordingly the officer's assessment, and the professional advice given to Committee Members, gives insufficient weight to sustainable transport issues.

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The application's Transport Assessment and Travel Plan both rely on the assertion that the new development will generate no more road traffic than the current County Hall which it replaces. This is based primarily on the argument that slightly fewer car parking spaces will be provided for new office accommodation substantially exceeding the floor area of the current County Hall. The new offices will attract 4,000 jobs, compared to the 1,300 currently accommodated on the site. On-site car parking constraint is likely to lead to increased parking on nearby residential streets. Most streets to the north of the site, which the application points out are easily accessible by walking, have no controls on car parking. Either there will be substantial additional car traffic generated by the development, or further on-street parking controls must be introduced. Such considerations are absent from the application and were not brought before the Committee.

County Durham Plan (CDP) Policy 21 requires routes for walking, cycling and bus access to be provided, linking to existing services and facilities, and for development to contribute to the strategic cycling and walking networks. Durham City Neighbourhood Plan (DCNP) Policy T1 requires that approach routes to sites be accessible, with mitigation of adverse transport impacts in the form of improved access in the area around the development.

The application's assessment of walking and cycling access is inadequate, with an assumption that the applicant's responsibility stops at the site boundary. This is despite the Council possessing recent assessments of the poor quality of local routes. The County Council's own Durham City Sustainable Transport Delivery Plan (2019), referenced in CDP Policy 22, identifies four major roundabout junctions adjoining or close to the site which present *"intimidating and potentially hazardous conditions for cycling"* and also require safer crossing facilities for pedestrians. No mention was made of this in the application or the committee report.

Regarding highways safety, the application reviews STATS19 accident figures, acknowledging a number of incidents involving pedestrians and cyclists, but concludes that there will be no increase in accidents because there will be no increase in motor traffic. However, if the enlarged development succeeds in restraining the increase in motor traffic, there will need to be a significant increase in walking and cycling to the site, but without infrastructure improvements, perhaps secured via Section 106 contributions, more pedestrians and cyclists are likely to become victims of road accidents.

The County Council's Sustainable Transport Team made brief comments on the application, including matters for further discussion, but did not formally object. A promised assessment of the submitted Travel Plan had not been prepared by the time the application was considered at the County Planning Committee. The Trust believes that inadequate resourcing of that team has resulted in a lack of full scrutiny of these aspects of the scheme. In this situation, the brushing aside of the Trust's five pages of detailed objections, summarised in the Planning Committee Report in a single bullet point, represents a serious abuse of process.

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The Trust's other key objections include:

- the lack of any information on accessibility by wheelchair, which is not straightforward, considering the hilly topography;
- no indication of appropriate design standards for internal walking and cycling routes, or of separation of these modes to comply with LTN 1/20;
- no bus access within the site, although the distance to half of the plots exceeds the recommended 400m maximum and access is explicitly required by CDP Policy 3(m).

Addressing transport emissions will be crucial to tackling climate change, yet the attention paid to transport in the outline application is inadequate. The Trust is in accord with the Council that the site has the potential for a sustainable development: Durham is a walkable city, and the Department for Transport's *Propensity to Cycle Tool* estimates cycling could increase eight-fold from the surrounding neighbourhoods if safe routes are provided. However, this potential will not be realised merely by limiting car parking and providing an upgraded internal path network. Durham's roads remain hostile to pedestrians and cyclists, and Durham County Council continues in practice to prioritise motor traffic flow over sustainable transport.

In a further demonstration that the application has been rushed, the Planning Committee has applied conditions to secure a Travel Plan, to replace the highly unsatisfactory framework plan submitted with the application, and a landscaping strategy, which is to include the internal path network. These matters cannot be effectively handled via the reserved matters applications for individual building plots, but nor can the wider sustainable transport and accessibility concerns which the Trust raised and which the planning authority failed to heed.

Ground 4: the Nolan principles are deeply offended

The County Council's planning application was considered at the County Planning Committee on 1st December 2020. This was, of course perfectly legal. However, one fundamental requirement of the Nolan Principles is that decision making by public bodies must not only be objective, open and transparent but must also be seen to be so. Public confidence in local government is damaged if decisions are perceived to be biased, self-interested and contrary to up-to-date planning policies.

Leading Elected Members of the County Council have made repeated and well-publicised declarations of the absolute importance of the Aykley Heads scheme for the economic betterment of County Durham. We agree that the delivery of the Aykley Heads strategic employment site is of great importance for the County. But this application fails to meet the standards that must be achieved if it is to comply with the policies of the County Durham Plan, and yet the County Planning Committee is minded to approve it.

Faced with such significant publicly-stated commitment by the County Council to the Aykley Heads project, it is incredibly difficult for the public to believe that the County Planning

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Committee would do anything other than approve this application in which the County Council has been so intimately involved. Indeed, to refuse it or require improvements would be a declaration that its own officers had failed to understand the requirements of their colleagues within the same authority.

As a result, all suggestions for improvements with regard to travel sustainability, to landscape and Green Belt impacts, and to the County Council's declared climate emergency were set aside on arguments that were explicitly wrong: namely that although the application is contrary to a number of County Plan policies approval for the application as submitted must not be delayed or the LEP grant of £6 million might be lost. That failure alone fatally contaminates the decision made by the County Planning Committee.

The Council has now admitted in correspondence that the decision to proceed with this planning application was taken as far back as September 2018 by the County Council's Cabinet which, besides negating the significance of the potential LEP grant, shows that the Committee decision to be minded to approve the application was reached primarily on Council political strategy grounds, rather than on the relevant planning considerations which should have been the basis for its decision.

Accordingly, on all of the above grounds the City of Durham Trust and the City of Durham Parish Council respectfully request that Durham County Council is directed to not approve this application. This application should either be placed with an Independent Inspector or be replaced with a revised application that accords with the policies of the County Durham Plan adopted on 21 October 2020.

Yours sincerely

John Lowe

Chair, City of Durham Trust