

THE CITY OF DURHAM TRUST

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c/o Blakett, Hart & Pratt, LLP
Aire House
Mandale Business Park
Belmont
Durham, DH1 1TH
10 May 2021

Dear Mr Hopper,

DM/20/03760/FPA First to Third Floors 4 - 6 Silver Street Durham DH1 3RB

Partial change of use to create 70 bed Student Accommodation Facility to include the erection of a two storey extension to existing roof and associated access arrangements

The Trust continues to object to this proposal. The removal of the highly intrusive fourth floor, realignment of the third floor to accord with the existing frontage, and alternative materials for the rear extension, simply are not enough. The proposals fails to deliver any positive enhancement; the roof replacement for the current rooftop is only a minor reduction in negative impact. It is negated by the loss of stepping up Silver Street, the effective joining with the adjacent Tesco's block to create a large unsympathetic, homogenous mass and it still imposes a large two storey rear extension to the World Heritage Site (WHS) at a vulnerable point. Loss of retail space remains insufficiently examined or justified as does the need for more student spaces outside of County Durham Plan (CDP) major Purpose Built Student Accommodation (PBSA) allocations. Put concisely, it is an inappropriately weak design imposed on the conservation area, a historic street, and close to the WHS with no acceptable justification of its use.

The Trust's objection stands and where altered in relation to further submissions is indicated in *italics* in the text below.

Use

1. This is the first of the recent city centre retail to student accommodation conversions that is a large, usable, upper retail space, *although there is now a significant but smaller loss proposed for the upper space in the adjacent building*. Others have been smaller storerooms, staff rooms or unused space. Strategically it is a significant and measurable change in the function of the retail core. The impact of retail changes is taking its toll; it is exacerbated by the current pandemic and continuing alteration in retail patterns. The difficulty in commercial letting is understood but the overall lack of a strategic response to city centre uses and alternatives to ensure continuing vitality is becoming obvious. *This amount of retail loss continues to be unacceptable when based on a limited period of lack of tenancy and consideration of alternative uses*. To switch to basic student use, especially when the pattern of accommodation for the University is itself potentially going to change, is short sighted for the heart of the city.

2. The Trust therefore regrets the change in use to student accommodation. *Its objection remains to the extension to the second floor and the addition of a further floor of student rooms that it sees as unnecessary and has substantial design and heritage impacts*. The problems with letting the first floor may be demonstrated but there is no submitted justification for adding such a large new block on top of the existing building, especially considering its sensitive location. Why it should be so necessary to provide extra student accommodation here is not explained *and remains so in further submissions*.

Planning Statement and Bed Space Report

3. The Planning Statement contains inaccuracies (*and continues to*) and both it and the Bed Space Report contain omissions in base data that skew the results for estimates of student PBSA need. There is acknowledgement for parts of the various relevant policy requirements but key omissions in identifying impact on the core of the city as a primary retail centre.

4. *The applicant's consultants now accept that the relevant statutory development plan policy is County Durham Plan (CDP) Policy 16.2.* This makes it obligatory to provide evidence of (a) a need for additional student accommodation of this type in this location; and (b) to undertake consultation with the relevant education provider pursuant to the identified need. On need, the applicant's Statement constructs a need for about 1,000 additional bedspaces, but it does so by setting aside all six PBSAs proposed by the University and allocated in the County Durham Plan for 2,100 to 3,200 additional bed-spaces. This is a wholly misguided approach and disrespects the very welcome work by the University and the County Council. *The applicant's consultants now provide a 'rebuttal' on this matter. The Trust finds this document to be nothing of the sort; it claims that the six PBSA sites have no planning status, an unfortunate and incorrect claim given that the County Durham Plan formally allocates all six sites and therefore grants them approval in principle. It is further unfortunate of the consultants to throw doubt on the delivery of these PBSA sites because of site assembly issues - the University owns all of the land and there is no issue of site assembly. The fact is that there is no shortage of bed-spaces in prospect.* This policy also contains specific requirements in relation to heritage impact – see the Heritage Assessment section below.

5. *Also of note is the inference the Trust draws from the Inspector's Report on the CDP:*

Para. '261. However, whilst the Plan should be effective in accommodating the currently identified growth in student numbers, the limited size of the city and its particular physical and historic character mean that there may be limited capacity for further growth in the city in the longer term'.

This very clearly indicates that there are limitations on the City's capacity to absorb further expansion in University student numbers beyond that envisaged in the County Plan, especially where there are heritage implications.

Durham University does not have jurisdiction over the allocation of spaces for students in the City Centre. Whilst its objection, or not, is its prerogative, it is not in its gift to rule that the 'upper floors... are suitable for student accommodation'. This is particularly the case where there other heritage implications and given the proximity of the Castle where the University is the heritage 'custodian' of the building. The University consultant's objection actually notes that there is no requirement for these bed spaces – directly contradicting the applicant's further planning submission that identifies 'unmet demand'. It appears that the required consultation with the university may have been minimal. The applicant's consultant's suggestion that the proposal will reduce pressure for houses in Multiple Occupation (HMO) is also completely contradicted by the continuing steady rate of applications for expansion of existing student accommodation and new HMOs in the city, despite the provision of several new PBSAs and Colleges.

THE CITY OF DURHAM TRUST

6. Durham is the Primary Shopping Centre and the supporting text to ‘*Ensuring Vitality of Existing Retail Centres*’ **CDP Para. 5.63** requires assessment of a proposal’s impact on vitality and viability. The concentration of non-retail uses also needs assessment for impact. In this instance there is both a significant loss of retail floor space and a continuing concentration of student accommodation conversions, especially in Silver Street. The Trust considers that student accommodation adds nothing to year-round city centre vitality, especially when set against the CDP’s support for alternative uses such as art and cultural facilities. It is not clear whether there is any retro-conversion potential for the first floor proposal if other alternatives were to be possible in the future. Is this locked out by the nature of the conversion, representing a large permanent loss of retail space? Collectively this is a serious omission from the Planning Statement. If this were to be compounded by the addition of extra floor space specifically designed to student accommodation floorspace standards, this would create a substantial additional financial obstacle to reversion of the site to retail or to other city-centre uses.

Design and Access Statement

7. This includes the inaccurate statement about the development being screened adequately from the WHS – this is not the case, see Heritage Assessment section below. *This remains incorrect.*

Heritage Assessment

8. *The submitted heritage and design and access statements are incomplete and inaccurate. They now contain some consideration of how the amended proposed extensions relate to the Castle and its North Terrace. The updated Heritage Statement wrongly notes that there are limited opportunities to view the roof from the Peninsula. The Terrace remains without proper analysis – it was created to form a promenade with cross city views over the Silver Street rooftops, city, river and onward to the City’s green setting. Windows in the Castle overlook the city in a similar way. The topography of the Peninsula creates extensive views over the application site from the Castle’s prominent position, something the 17th/18th century Terrace exploited. The growth of trees (only since 1948) and general inaccessibility of the Terrace have led to its views, its role and significance being underestimated. The view is in part obscured by the self-regenerated trees that are managed as urgent need arises rather than being under planned maintenance. However, there are views through the trees. A tree management plan would balance the green setting to the Castle against views out – offering selected views out across the city. The current situation cannot be regarded as permanent or desirable. The Heritage Statement also incorrectly refers to a WHS ‘buffer zone’, Durham only has the inner setting as shown in the WHS Management Plan. This is an important omission because in order for WHS protection to be ensured, development within the Inner setting, especially where close to the WHS, needs to be very sensitive to harm to the WHS. This point has been reinforced by comments on the Elvet Waterside University Business School proposal (see paragraph 17 below).*

9. The impact of the original Marks and Spencer building, extensions and rooftop additions is not fully assessed. Cumulative impact together with the adjacent Tesco building and former Burton’s building *continues to be* missed. Current negative impact on Moatside Lane is underplayed. The historic townscape pattern of development and influence on Silver St. buildings is not fully assessed. The burgage plot dimensions, elevation ratios, general concordance of heights of buildings and traditional materials have formed the basis for the centre’s townscape/roofscape and this is not fully acknowledged.

THE CITY OF DURHAM TRUST

10. The application building and two adjacent buildings, although following some of the burgage plot divisions, have collapsed individual plots together and inserted common frontage treatments – directly working against the burgage plot ratios nearby where single and double plots result in a more vertical elevation ratio rather than horizontal. The break in the existing building frontage as it follows the curve of Silver Street reflects the burgage plot division. This should have been recognised in any assessment and the proposals do not reflect this or the building breaks as it returns down Moatside Lane. *The new proposals remove the stepping between this building and the adjacent Tesco's building creating a large and thoroughly inappropriate mass.*

11. The existing building is almost the same footprint as the Castle's Northern Range. The proposed *two storey extension remains as* approximately 50% of that. This *remains* of a size coupled with height, *albeit reduced*, that should have merited a more intensive and detailed scrutiny of impact.

12. Nighttime assessment is missing. There has been very substantial investment in the lighting of the Castle and Cathedral as implemented by the County Council. There will be impact caused by the lighting from increased numbers of windows and the external spaces intruding into the Castle's surrounding roofscape. The effect of the WHS lighting scheme was to give dominance of the Castle at night and this proposal weakens it.

13. The impact on Moatside Lane is not accurately assessed and the height increase will *add to overshadowing* of the narrow Vennel. Benefits are minimal or non-existent.

14. Generally, negative impact is underrated. Assessment is wholly based on visibility from public places, missing some and failing to assess the impact of inherent design quality and the full relationship to the historic townscape. The property's proximity to the WHS and its boundary should have increased the level of sensitivity in relation to heritage impact. The essential attribute is the dominance of the Castle and Peninsula set against the subordination of the foreground townscape. This is under-recognised.

15. The current roof with its various plant and other intrusions may be unsightly but changing it is a very slim justification for such a massive change and this benefit is overrated.

16. ICOMOS (the body that advises UNESCO on WHS issues) specifically warns against separating out heritage assets, views or attributes and missing the way in which cumulative impact can register against the 'overall ensemble' of WHS attributes. *The updated Heritage Statement in now adopting the ICOMOS method of assessment fails by missing the actual significance of the North Terrace and Castle and their close relationship to the proposal. It cannot successfully move on to analysing the more subjective rating of impact and describing impact as 'slight' is a major under assessment. The rear of the extension is two storeys high and closer in to the WHS.*

17. *ICOMOS has specifically warned about negative impact of development in the immediate setting of the WHS (see Elvet Waterside Business School comment). This warning is clear and relevant to consideration of this application sitting immediately on the boundary of the WHS.*

THE CITY OF DURHAM TRUST

18. The **CDP Policy 16.2** final paragraph also states the following *about PBSA development*:

'Where appropriate, development will be expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment, and should seek opportunities to enhance and better reveal the significance and understanding of heritage assets whilst improving access where appropriate.'

The Trust considers that the failures of the Heritage Assessment lead on to a misleading assessment of the proposals against this requirement. It should have been clear that the location next to the WHS and in the Conservation Area would have triggered the need for any new development to sustain their obvious significance. The Trust maintains that the proposals do not. *Neither do they positively enhance the Conservation Area.*

19. Also, of concern is whether this application will trigger a similar comment by ICOMOS as with the Elvet Business School proposal:

'This proposal (Business School) highlights the high vulnerability of the immediate setting of the property (WHS) and ICOMOS advises that a reappraisal of regulations for the immediate setting of the property should be undertaken urgently to ensure that development is limited and, where appraise (sic), is of a size and from that is compatible with supporting attributes of OUV.'

Design

20. The proposal inserts an extension to the existing second floor staff accommodation, an approximately 50% increase in footprint over the original. *The stair tower facing the WHS adjacent to Moatside Lane continues to intrude negatively, overshadowing and dominating it.* At the Silver Street frontage, it represents an *unacceptable* increase in height; to the rear due to the rising ground, *it adds two storeys to make the rear three storeys high* (without considering plant). The rear is not fully screened from the Castle's North Range and North Terrace by the rear building on Moatside Lane because of the Terrace's relative height and the 'dog-leg' of the building as it follows Moatside Lane.

21. *There are two approaches to the extension design and third storey, more traditional mansard elevations to the third and then the 'box' rear stair tower.* These fail to relate well to each other or the original Marks and Spencer corporate styling. Some of the bricked up windows facing Moatside Lane are kept, other windows are opened up and unsightly external pipework appears to be proposed for removal. There are more windows inserted in the rear building's Moatside Lane elevation. The mansard is in slate and the 'box' extension has lead facing. The oversized, very prominent, and unsightly shop facias remain and are excluded from the application.

22. There are no visible mansard roofs along the historic core streets and few dormers except for part of the Prince Bishops Centre and the application's rear building. The newer buildings have flat roofs, but most existing buildings are earlier with traditional pitched roofs. Marks and Spencer's corporate designs had no mansards. The proposed dormers line up with front elevation windows but are otherwise of a different, more contemporary box styling. *To set a precedent for adding mansards is very likely to further harm the street and the Conservation Area.*

23. The steep streets lead to buildings stepping up the slopes – creating a fragmented roofscape and elevation relationship. Even the existing application building and two adjacent buildings step up the slope of Silver Street. The effect of the proposal is to 'flatten' the

THE CITY OF DURHAM TRUST

stepping by raising them to *close to* the height of the adjacent Tesco's building. The original Marks and Spencer frontage had stepping in the shopfront but none in the upper storeys.

24. The Trust believes that any design in the conservation area and in proximity to the WHS should be of a high quality, irrespective of whether it is on view to the public. Design quality is a requirement of the CDP and Neighbourhood Plan. The design of the proposals is extremely poor; it fails to establish a relationship between its various parts and to the original building. It fails to relate to other buildings within the historic streets of the retail core of the City. It has substantial negative townscape and roofscape impacts that cause heritage concerns and detract from the WHS.

Access

25. Although the post pandemic lecture provision for students has yet to evolve, based on previous patterns there may well be a rush before lectures start as students exit the building onto Silver Street. This may cause some short term congestion and is of concern.

Impact

26. The large size of the extension and increase in height have a major impact in respect of the Conservation Area and World Heritage Site. Such a large addition into the townscape and roofscape close to the WHS and in the core of the historic City is of obvious concern. The Trust believes it has demonstrated that the rear is on view from an important sector of the WHS and the extensions are also seen in cross-views from elsewhere. Design quality does not in any demonstrable way relate to its location, it is extremely basic and adding traditional materials cannot mask this. *The stair tower is remains large and intrusive and has little or no justification in relation to its setting.*

27. The proposals specifically weaken the dominance of the Castle set against the subordinate surrounding townscape. It negatively impacts on the view from the Castle's North terrace and North range. They impact negatively in the townscape in views of the WHS across the City, notably from Crossgate and the Station.

28. The current WHS management Plan identifies the attributes of the WHS in relation to its Statement of Outstanding Universal Value (SOUV). Significances 2 and 3 explain why the physical domination of the WHS buildings is so important. They draw attention to the relative subordination (at the date of original drafting) of new development to the ranges of buildings that have evolved on the WHS:

Significance 3 - *'the fact that they have not been overshadowed by modern construction and development, reflects the pre-eminence of the prince-bishopric as the most important position in Durham's history.*

Negative impact will weaken these attributes.

29. The poor design fails to enhance the Conservation Area and works against the small scale and fragmented character of its buildings. Their character reflects the underlying topography and emphasises the dominance of the large WHS buildings that overshadow them. This will be weakened by the proposal.

30. The night view of the WHS will be weakened by the intrusion of lighting of the extensions, external areas, and entrances into the townscape/roofscape of the city.

THE CITY OF DURHAM TRUST

31. Moatside Lane remains dominated by the building and its poor appearance; the new extensions will overshadow the narrow vennel making it even less attractive for pedestrians.

Policies

32. The proposals fail against the following policies:

County Durham Plan

Policy 9 Retail Hierarchy and Town Centre Development - Failure to protect and enhance the retail hierarchy. Primary Shopping Area - failure to protect vitality.

Residential Uses – Failure to accord with other policies.

Policy 16 Durham University Purpose Built Student Accommodation. Section 2. - a. Failure to prove need c .Failure to show lack of negative impact on retail.

Policy 29 Sustainable design Fails against **a.** by not contributing positively to character, identity, heritage significance and townscape. Is not locally distinctive **Extensions and Alterations** – Fails to be sympathetic to existing building, and character and appearance of existing area by poor design and scale.

Policy 31 Amenity and Pollution – Fails against supporting text **Para. 5.325** causes damage to setting of a heritage asset without an adequate assessment of need.

Policy 44 Historic Environment. Conservation Areas **f. and h.** Failure in understanding significance and setting, fails to respect and reinforce positive characteristics particularly design quality, mass and height.

Policy 45 Durham Castle and Cathedral WHS – **a.** Fails to maintain the significance. **b.** Fails to understand OUV and regard WHS Management Plan. **c.** fails to protect or enhance immediate setting and views out.

Neighbourhood Plan

Policy S1 – Fails against **c) and d)** by not harmonising with context or conserving and enhancing setting, character, local distinctiveness and view.

Policy H1 – Protection of World Heritage Site – a) Fails to take account of historic use (of North Terrace) **b)** Is not high quality design harmonising with WHS.

d) Conflicts with WHS by overbearing mass and lacking balance. **e)** Has failures in assessment, including a failure to avoid cumulative impact – through height and mass and space between buildings **f)** Fails to protect views

Policy H2 Conservation Area – b) Fails to retain roofscape without demonstration of adequate benefit. **g)** fails to protect views in Conservation Area **i)** lacks sensitivity to scale, height **j)** inappropriate lighting **l)** fails to avoid cumulative impact through size, mass and uniform design

Policy E3 Retail Development – Falls outside of supportable changes because of negative impact on retail, commercial and tourism activities and the general amenity of neighbouring properties, and the positive uses listed at sub-paragraph **(a); c)** its detrimental effect on the back lane and vennel.

Summary

33. Based on the failure of the proposals against a range of policies, as demonstrated, the Trust *continues to object* to the application. It objects based on the failures in adequate heritage, retail impact assessment and establishing the need for student bed spaces. There is a failure to uphold the attributes of the World Heritage Site. *It is of mediocre design and fails to enhance the Conservation Area. The proposal for extensions is not justified by need analysis, has no clear economic benefit for the City, has negative impact on the view from the WHS North Terrace across the roofscape of the City and diminishes the Conservation Area.*

THE CITY OF DURHAM TRUST

Yours sincerely

John Lowe

Chair, City of Durham Trust