

c/o Blakett, Hart & Pratt, LLP
Aire House
Mandale Business Park
Belmont
Durham, DH1 1TH
22 June 2023

Web site: <http://www.DurhamCity.org>

Dear Ms Penman,

DM/23/01077/FPA Land To The North Of Industrial Estate Frankland Lane Durham DH1 5TA

Proposed development of 26 holiday lodges, security office and associated recreational hub with access, parking and landscaping

The Trust wishes to object to this application based on its conflict with the Green Belt, and negative impact on an Area of Higher Landscape Value, the World Heritage Site inner setting, Durham City Conservation Area and listed heritage assets, and on local biodiversity. It also objects based on the dangers of pollution resulting from the disturbance of previously buried contaminants associated with the site's former uses.

The Site and General Context

The site is based on a former brickworks and clay pits lying adjacent to a previous mine site also included in the ownership. The site is partially reclaimed to an apparently undocumented extent. The buildings were demolished and rough grading has taken place over sections of the site. Additional systematic surface drainage works have been added. The mine site has similarly been demolished and graded over. Clay pit slopes have eased. It is unclear whether further fill has been imported into the site. Some building rubble areas remain. Where organised reclamation has failed to be completed, natural regeneration has taken over to create a greenspace with water and other habitats.

The current condition of the site means that the proposal fails to meet any of the exceptions to being considered inappropriate in the Green Belt (as defined in NPPF 2021, Para. 149). Under the terms of that paragraph the proposed development will not meet any of the exceptions including:

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development (it will impact greatly on openness); or*
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority (it will not contribute to housing need).*

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The land should not now be regarded as a former industrial site needing reclamation. There may be concerns about disturbance of any buried harmful materials resulting from the brickworks and mine use. Similarly, run off may be an issue. The Trust believes that the baseline for considering its development should be as it presents itself now – a valuable greenspace with a mixture of habitats requiring only minimal further treatment. The areas surrounding Crook Hall and abutting Sidegate may once have been the scene of intense industrial activity but this has now gone. They have regenerated to become valuable greenspace; this was recognised in them being formally included in the Green Belt and Area of Higher Landscape Value designations.

As a result of its regeneration the site now forms part of the urban fringe stretching from Kepier across the Wear Valley and up to Aykley Head. This fringe area has failed to attract sufficient recognition in the past for its importance and its role in defining the city and its approaches. It is the interface and buffer between the rural areas further north along the Wear Valley and the now intensively developed northern sector of the City. It is variously semi-rural or formal green space and landscaping but its overall impact is as the tip of the green wedge running from the North into the city. This places very high value on it. It has led to its inclusion in the inner setting of the World Heritage Site in the current Management Plan. With hindsight and as an example, it would have been possible to designate it a valley park when the then Countryside Commission interest in fringe areas of historic cities prompted Exeter to promote this for the Exe Valley. It is very welcome, following attempts through Durham City Vision in its Necklace Park plans to promote this concept, that the National Trust is now exploring the creation of a green corridor in this area.

The fringe and city areas adjacent have been subject to a number of developments that have placed greater value on the site and its surrounds as a buffer zone. These include County Hall, the Police Headquarters and the railway station new car park to the West. More immediately adjacent is the ‘bookending’ of Sidegate with an inappropriately large house and office development. Intensification at Walkergate and Milburngate together with the Radisson Hotel and a new building (formerly the new DCC Headquarters but now to be the University Business School), has substantially increased intrusiveness into the area. This has been added to by the multistorey car park associated with the HQ/Business School development and knock on effects on the Sixth Form College. The legacy semi-industrial uses along Frankland Lane and the Sewage Works combine with this. There is cumulative negative impact. The gain from the loss of the heavy industries has been reduced by this. This generates greater importance to retain the areas that remain as greenspace surrounding Crook Hall and that help to form the WHS inner setting.

The site entrance is at the complex meeting of accesses to the Riverside Centre, Sewage Works and the Blagdon Depot sites, as well as a former garage building now used as a church. These clash with the entrance into the narrower section of Frankland Lane, an important and historic route in use as a footpath and cycle route as well as farm access. The access and road from under Riverwalk is under increased pressure due to the intensification of use at Milburngate. This in turn creates further traffic that uses Milburngate roundabout – already very intensively used and with air quality issues.

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Specific Site Value

The site combines with the former mine area to the West to form the backdrop and immediate setting to Crook Hall. This is a Grade I listed manor house first dating from the 14thC and with two Grade II listed barns. It once had a close connection with its associated farmland extending around the Hall and North of the railway track. Despite industrial and railway intrusions, the recovery of the despoiled areas either side has given the Hall a very important green backdrop.

The site offers direct views to the WHS and is on view from the path beside the railway track and across the valley from behind Kepier. *(See below for cross valley views from Kepier and the footpath at Aykley Heads)*



It was deliberately included within the WHS inner setting which extends as far as the break in contours further east along Frankland Lane. There are two aspects of the importance of the inner setting that have been underplayed through undue concentration on specific views of

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the WHS. The first is the very important role in containing the historic city core and maintaining a physical break against the modern spread of development beyond the core. This assists in maintaining the apparent small size of the city core when set against the domination of the WHS – an important part of its significance. The second is in containing the historic routes to the Cathedral and their setting and offering a sequence of different views along the routes. In this instance the site is an important part of the separation and setting to the historic route to Finchale. This can be seen clearly from above Kepier Hospital, a Scheduled Ancient Monument.

The role in relation to heritage settings is echoed in the Green Belt function of preventing settlement merger – this being not just between individual settlements but also parts of the same settlement. This is defined in the NPPF 2021 as checking unrestricted sprawl of large built up areas. It specifically acts as part of the buffer safeguarding the countryside from encroachment and assisting in preserving the setting and special character of an historic town.

The site is immediately adjacent to Hoppers Wood as it extends over the railway track southwards. The submitted ecological report notes that the Wood as it extends into the site is ancient in origin. In terms of ecological value, naturally regenerating former industrial sites are increasingly being recognised as important habitats for their variety and extent of niche habitats. The site contains woodland edge, scrub, neutral wildflower grasslands and a pond. All are of considerable biodiversity value in the context of the Green Belt and urban fringe.

The value is ably described in the objection submitted by Mr Kian Hayles-Cotton. Such sites are very vulnerable to change and disturbance. To some extent this is recognised in the applicant's initial ecology report. Although this indicates the need for more detailed survey, even at the initial stage it identifies the vulnerability of habitats and species on the site.



Proposal

The development, as proposed, will consist of 26 substantial lodges, a recreational hub and all the car parking and roadways needed for a large scale development. The roadway in Grasscrete will show in the landscape because of its grading and the inevitable wearing away of the grass. Although frequently proposed and promoted as merging into the landscape, in practice it is never fully covered in grass. Even light regular use wears the grass out and on laying the concrete component shows through substantially and never fully disappears. The lodges are all similar, uniform and similarly spaced. The Trust likens this to a street with detached houses. The reality is the Trust's view and not that of the applicant where it is represented as the lodges only occupying 2.3% of the site. The combination of lodges, roads and parked cars add up to approximately two thirds of the site excluding the mine area.

There is confusion over footpath proposals, the consultation summary refers to public footpaths but the application form does not. It appears that the National Trust would not

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welcome these and separate communication between the City of Durham Trust and the National Trust has indicated this. It is also not clear whether the paths are achievable over this reclaimed land with potential underlying pollution. The Trust assumes they are not practicable and if they were, their benefit would significantly fail to outweigh the harm of the development.

The proposal, claiming that the only current walking route to Newton Hall from Crook Hall is via Frankland Lane, past the industrial units and office buildings, omits to mention the very important, popular footpath from the lane to Newton Hall running adjacent to the area at issue. *No planning notice has been made visible to people using this footpath.*

Impact

The development will be clear to view from in the views shown. Clearance for the roads and lodges will substantially reduce both habitat range and beneficial impact of the greenspace with its rough grassland, scrub and developing woodland.

In relation to the Green Belt, the site should not be considered in terms of its long demolished building footprint but as greenspace. There is no exception for this proposal from being determined as *'inappropriate'* under Para. 149 of NPPF 2021. Under any analysis the proposal represents a very substantial reduction in openness. The application should be refused: it is *'Inappropriate development (that) is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances Para. 147 NPPF'*. Therefore *'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt (Para. 149 NPPF)'*.

The consequences of approving this development would be:

- 1 To fail to check the unrestricted sprawl of large built-up areas;
- 2 To fail to assist in safeguarding the countryside from encroachment;
- 3 To fail to preserve the setting of an historic town.

While the site is not in the conservation area it does immediately abut it and development will weaken its setting. The site was specifically included within the WHS inner setting and does have a direct view to the WHS. Development will further reduce the quality of the setting already harmed by intrusive developments in this sector. There will be harm also to the immediate setting of Crook Hall, now developing further as an attraction under National Trust care. The National Trust is also pursuing the creation of the green corridor along the Wear Valley, the historic route to Finchale now incorporated into the Camino Ingles, part of Cuddy's Corse and the new pilgrimage trails centring on the Cathedral. There is only a minimal gain from improving the site boundary and much greater loss in quality of the corridor.

Night views will be impacted by light from the lodges, cars and lighting for the site. This will have biodiversity consequences and be prominent in the landscape.

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Contamination and Mitigation. The Geo-Environmental study submitted covers risk and that identifies the need for on-site investigation. This brings its own disturbance to the site but also, more worryingly, the threat of further mitigation including drainage. It is very clear that there has been polluting uses and undocumented restoration. The submitted study identifies the range of materials that can cause impact on this type of site. The proposal as it stands will already cause substantial harm to the biodiversity value of the site through construction disturbance (see below). Mitigation is very likely to involve large scale excavation and treatment. Put simply, it is unknown whether this site can take the proposed development without completely destroying its biodiversity, green space and historic setting value. Approval would be speculative without substantially more detailed information.

If approved and investigations carried out followed by an attempt at remediation and mitigation, the Trust is concerned that this could prove too costly and the project become abandoned. The contaminants associated with its former uses, if found, are very significant because of the complexity of their containment and burial. Abandonment could lead to the loss of its current naturally regenerated condition and create a significant eyesore in the green belt. It is extraordinary that the application form claims that there is not even a suspicion of contamination.

Biodiversity Impact The biodiversity value of the site is very clear and mostly noted by the desk ecological survey. The proposals will badly damage a wildlife corridor valued for its biodiversity. The mitigation measures described in that report cannot practically be implemented because of the substantial area of disturbance for the development stretching over at least two thirds of the site. The remainder of the site will suffer from further disturbance due to the presence of so many occupants using the site.

The ecologists' call for a **Biodiversity Net Gain** assessment in their "*provisional* ecological assessment" (emphasis added) highlights the absence of such a submission. Even the recent application to redevelop the nearby and indifferent Blagdon Depot on its own footprint had included a BNG assessment.

The current scheme is presumably trying to avoid the change of planning law that comes into force in November, for which any such a development would need to demonstrate measures to enhance biodiversity overall. The current scheme does the opposite.

Hopper's Wood and Invasive Species. The application envisages its development as encouraging people to explore the woodland and countryside further north, but this is problematic. It is likely to lead the very littering and dumping of the kind already claimed as supporting development. Secondly, the woodland there (Hopper's Wood, east of the ECML) is badly overwhelmed with Himalayan balsam, an infamous, destructive, invasive species that is spreading there at an accelerating rate. More people venturing into the area must spread the seed further on footwear or have it carried on the fur of their dogs. Writing to a Trustee in June about another balsam-infested site nearby (Jubilee/Beacon Hill), an officer for the Wear River Trust's invasive species programme advised, on the risk of balsam seed being spread as described, that biosecurity advice should help. Presumably, such biosecurity advice would be required to be given to visitors coming to stay at the former brickworks site.

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Amenity Impact. There is an amenity problem in creating residential accommodation on the site because of the smell that often comes from the sewage works. The buzzing, vibratory noise from the plant's working would also be audible from the southern row of the proposed chalets. This can be very noticeable on summer evenings.

For the record: at 1 pm on 14th June it was impossible to miss the sewage odour on the footpath that runs to Frankland Lane from Lindisfarne Road, Newton Hall. The odour hit from about the middle of the grass field north and east of the proposed chalets and persisted at various strengths up to the southernmost end of Blagdon Depot. It would certainly affect the southern part of the proposed development on the former brickworks. The proposal is the equivalent of housing and as such is a sensitive use and part lies within 200mm of the sewage works. It will require assessment as noted in the Policies Appendix under County Durham Plan Policy 31. Using the plan submitted by the developer, the sewage works would also be visible from the northernmost chalets.

The area is also close to the main East coast railway line – busy and noisy. These must be considered as detracting factors, especially considering the justifiably high expectations of holiday makers in the lodges or sitting outside on the lodge terrace.

Tourism Harm. It is of regret to the Trust that Visit County Durham is noted as being in support of the proposals (as indicated by the applicant). It seems worth asking if the claimed support is based on close knowledge of the area, or only the developer's account of it. The Trust's position is that the accommodation proposed is a relatively small gain, if even that, given the loss of biodiversity. The greater visitor attraction and potential for increased attraction lies in the WHS, the historic core and Crook Hall, along with the National Trust's own developing ambitions for this same area, broadly supported by DCC, as recorded in a talk to the City of Durham Trust given by the regional manager of the National Trust last December, available on YouTube. This also instances, around 42 minutes in, a rather different response to the current proposal than is recorded in the application. This is available on the City of Durham Trust's website.

Summary

The Trust's view is that any benefits suggested are simply not convincing enough to justify the conflict with the Green Belt, and harm to an Area of Higher Landscape Value and heritage assets, including Crook Hall and the WHS, as well as the hit to local biodiversity. The Trust is very concerned about further development proposals for this area. The application refers to a similar proposal to the other side of Crook hall and local residents have been made aware of major car park proposals at Diamond Terrace. Cumulatively, these three would effectively have an extremely damaging impact on Crook Hall, the Green Belt, Conservation Area and setting to the WHS. There is potential for also proposing development on the Sidegate car park. Active recognition and protection of this valuable area is needed.

The Trust therefore objects to this proposal based on its conflict with the Green Belt, negative environmental impact and its considerable policy failures detailed in the following appendix.

Yours sincerely
John Lowe
Chair, City of Durham Trust

Appendix – Policies

The proposal fails against the following policies:

County Durham Plan

Policy 10 Development in the Countryside

Development of Existing Buildings - General Design Principles for all Development in the Countryside

The site is not within the built up area and is an important component of a green wedge, it therefore is 'countryside'. The proposal does not have full and clear benefit and will have adverse environmental impacts as described in:

g. (The) development of a new, or the enhancement of, an existing countryside based recreation or leisure activity which will improve access to the countryside for all in terms of walking, cycling, horse riding and sailing without giving rise to adverse environmental impacts.

The proposal is new development in the countryside and fails by virtue of its siting, scale, design because:

l. It gives give rise to unacceptable harm to the heritage, biodiversity and intrinsic character of the countryside individually and cumulatively and cannot be adequately mitigated or compensated.

m. It contributes to increased merging or coalescence of neighbouring developed area by its siting in the centre of an important green wedge.

o. It impacts adversely upon the setting, including important vistas, townscape qualities or form of a settlement and cannot be adequately mitigated or compensated for.

As new development in the countryside it (t.) will impact negatively on the site's high environmental value.

Policy 20 Green Belt

This refers to National Policies as expressed in the National Planning Policy Framework NPPF and is relevant as follows:

NPPF 13. Protecting Green Belt land

Para. 137. The current site prevents urban sprawl by keeping land permanently open and upholding the essential characteristics of Green Belt openness and permanence.

Para. 138. The site upholds Green Belt purposes:

a) by checking the unrestricted sprawl of large built-up areas.

c) by assisting in safeguarding the countryside from encroachment.

d) by preserving the setting and special character of Durham as a historic 'town'

Para 149. There are no exceptions for this development to being termed inappropriate.

This should therefore not be approved as there are no special circumstances or overriding benefits.

Policy 29 Sustainable Design

a. The development fails to contribute positively to the area's character, identity, heritage significance, and landscape features.

e. The proposals will fail to provide high standards of amenity (*due to proximity to the Sewage Works and main railway line*).

Policy 31 Amenity and Pollution

This development should not be permitted because it cannot be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on living conditions or the natural environment.

The proposal cannot demonstrate that future occupiers of the proposed development will have acceptable living conditions

The development is equivalent to housing and should be considered 'sensitive development' and should not be permitted near to an existing polluting development. It applies because it is near to a waste water and sewage treatment facility.

Sensitive Uses

5.330 The development is within the close vicinity of a polluting development - the sewage works. It should be considered inappropriate development.

The proposal will require careful consideration, in consultation with the necessary bodies because of its proximity as a sensitive receptor, the likelihood of complaints and any implications on health.

At least part of the proposal lies within the suggested 200 metres that can be considered a reasonable distance and adverse effects are very likely to occur beyond that distance.

Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land

The development should not be permitted because the developer has not demonstrated that:

- a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;
- b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.

Policy 39 Landscape

The proposals for new development should not be permitted because they cause unacceptable harm to the character, quality and distinctiveness of the landscape, and to views.

The proposals cannot incorporate appropriate measures to mitigate adverse landscape and visual effects.

This is Development that affects an Area of Higher Landscape Value defined on Map H, and should not be permitted because it fails to conserve and enhance the special qualities of the landscape, and the benefits of the development do not outweigh the harm.

Policy 40 Trees, Woodlands and Hedges

Trees The proposals should not be permitted because they will result in the loss of, or damage to, trees of high landscape, amenity and biodiversity value as the benefits of the proposal fail to clearly outweigh the harm.

Policy 41 Biodiversity and Geodiversity

The development concerns an area now rich in wildlife, as testified by other objectors. It contains, for instance, several red-listed bird species, such as the declining willow tit. The

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application thus collides badly with the policy that “Proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for.”

Likewise, section 5.426 of this policy is relevant:

“[...] brownfield land can support an extremely rich diversity of wildflowers and animals, and has its own UK BAP Priority Habitat ‘Open Mosaic Habitats and Previously Developed Land’. Where such sites have significant biodiversity or geological interest of recognised local importance, this interest should be retained or incorporated into any development.”

The wording of the application is playing to anachronistic assumptions about the phrase “brownfield site”. The development presented would flatten a large part of a rich area with a new road, and side-road, and the chalets with their bare parking spaces.

Policy 44 Historic Environment

The development will not sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. The development proposals do not contribute positively to the built and historic environment.

Designated Assets

The proposals fail to give great weight will be given to the conservation of all designated assets and their settings

Listed Buildings

b. The proposals fail to respect the setting which contributes to the significance of the building (Crook Hall).

Conservation Areas

f. The proposals fail to demonstrate understanding of the significance, character, appearance and setting of the conservation area and how this has informed proposals to achieve high quality sustainable development, which is respectful of historic interest, local distinctiveness and enhancement of the asset;

Policy 45 Durham Castle and Cathedral World Heritage Site

The Durham Castle and Cathedral World Heritage Site is a designated asset of the highest significance. This development affects the World Heritage Site setting and fails to:

a. sustain and enhance the significance of the designated asset.

Durham City Neighbourhood Plan

Policy S1: Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions

The development proposals do not demonstrate the following principles:

Conservation, preservation, and enhancement of Our Neighbourhood

c) Harmonising with its context in terms of scale, layout, density, massing,, and hard and soft landscaping

d) Conserving the significance of the setting, character, local distinctiveness, important views, tranquillity and the contribution made to the sense of place by

Our Neighbourhood’s designated and non-designated heritage assets;

e) Protecting and enhancing the diversity of Our Neighbourhood’s natural

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environment in terms of biodiversity / geodiversity, designated wildlife sites and protected species, seeking biodiversity net gain wherever possible;

Policy H1: Protection and Enhancement of the World Heritage Site

Development proposals throughout Our Neighbourhood should be shown to sustain, conserve and enhance the setting of the World Heritage Site where appropriate. The proposal fail to:

- e) carry out an assessment of how the development will affect the setting of the World Heritage Site, including views to and from the World Heritage Site; and
- f) protect important views.

Policy H2: The Conservation Areas

Durham City Conservation Area

Development proposals within or affecting the setting of the Durham City Conservation Area should sustain and enhance its significance as identified within the Conservation Area Appraisals.

The development proposals affect the Durham City Conservation Area and do not take into account, and meet, the following requirements:

- e) avoiding loss of, or harm to, an element of an asset which makes a positive contribution to its individual significance and that of the surrounding area; and
- f) avoiding loss of open space that contributes to the character and appearance of the surrounding area; and
- g) protecting important views of the Durham City Conservation Area from viewpoints within and outside the Conservation Area; and
- i) having appropriate scale, density, massing, form, layout, landscaping, and open spaces; and
- j) having lighting appropriate to the context and setting
- l) avoiding adding to the cumulative impact of development schemes which dominate either by their scale, massing or uniform design.

Policy H3: Our Neighbourhood Outside the Conservation Areas

The development proposals do not demonstrate an understanding of the area of the proposed development and its relationship to its context as a whole.

The development proposals do not take into account or meet the following requirements, by:

- a) Failing to sustain and make a positive contribution to the character and distinctiveness of the area; and
- b) By avoiding the loss of open space that contributes to the character and appearance of the surrounding area;

Policy G1: Protecting and Enhancing Green and Blue Infrastructure - Protecting green and blue assets

Protecting and enhancing green corridors

The development proposals have negative impact on a green corridor and fail to maintain and enhance its functionality and connectivity.

Protecting dark corridors

The development proposals cannot incorporate new lighting designed to minimise any ecological impact and avoid significant harm to existing dark corridors.

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Policy G4: Enhancing the Beneficial Use of the Green Belt

The proposals are within the Green Belt land in the Sidegate and Frankland Lane area of Our Neighbourhood as shown in Proposals Map 4 for the purpose of improving access (particularly for people with disabilities), green corridors, landscape, or biodiversity, or for enhancing visual amenity, and cannot be encouraged and or supported because they fail:

- a) to sustain, conserve and enhance the inner bowl setting of the World Heritage Site, and the Durham City Conservation Area, and:
- b) will cause significant harm to the overall quality of the Green Belt environment, particularly its openness

Policy E6: Visitor accommodation

The development proposals are for new, visitor accommodation and cannot be supported because the:

- b) the location, scale and character of the development will have an unacceptable adverse impact on the natural or historic environment.