

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 18 December 2013

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APPLICATION REF. NO:	13/00750/FUL
STATUTORY DECISION DATE:	25 December 2013
WARD/PARISH:	CENTRAL
LOCATION:	South Car Park, Town Hall, Feethams
DESCRIPTION:	Mixed use development including cinema, hotel, restaurants, bars and leisure uses, comprising the erection of buildings for use within Use Classes A3, A4, C1 and D2 with commercial car parking, access arrangements, hard and soft landscaping and outdoor seating areas (amended site investigation report received 14 October 2013, additional cycle parking plan received 12 November 2013, archaeological evaluation received 15 November 2013 and additional swept path analysis plans received 18 November 2013 and 21 November 2013)
APPLICANT:	TERRACE HILL (FEETHAMS) LTD

APPLICATION AND SITE DESCRIPTION

Planning permission is sought for the redevelopment of an existing 264 space surface car park to the south of the Town Hall, Feethams for a 9,711 sq m mixed use development, comprising the following elements:

- 9-screen multiplex cinema;
- 80-bed hotel;
- Range of commercial units for restaurants, bars and leisure uses;
- Public space at podium level comprising outdoor seating and landscaping; and
- 80 space car park and servicing area below the podium level accessed off Feethams.

The site, which was formerly occupied by the Arriva bus depot until its demolition in 2008, extends to approximately a hectare in area. It is bounded by the Town Hall to the north, by the A167/Feethams roundabout to the south, by the River Skerne and St Cuthbert's Way to the east and by Feethams to the west. The nearest boundary of the Town Centre Conservation Area is located approximately 80 metres to the north west of the site at the corner of Horsemarket. St Cuthbert's Church, a Grade 1 listed building, is also located approximately 150 metres to the north of the site.

The cinema is to be located on the western side of the site, facing Feethams, with the hotel being located on the east side facing the River Skerne. The proposed restaurant, bar and leisure units are to be provided both on the south facing side of the scheme and beneath both the cinema and hotel units. The development incorporates a raised podium level which will correspond with the existing level of the Town Hall forecourt to the north. The podium area will provide access to some of the units and also the cinema.

The cinema element of the scheme facing Feethams will have a maximum height of approximately 21 metres, comprising the cinema lobby and restaurant units at ground floor and the cinema screens within the upper two storeys at podium and first floor levels. The restaurant, bar and leisure units on the south side of the scheme will be built over two storeys with a further storey on top incorporating a plant room and glazed area. This element of the development will be approximately 11.5 metres in height. The hotel, to be built on the east side of the site facing the River Skerne, will be 6 storeys overall comprising restaurant units at ground and podium levels with the hotel rooms built over 4 floors above and with ground floor entrance lobby. This part of the development will be approximately 23 metres in height overall.

The proposal will result in the net loss of some 184 parking spaces and a total of 80 parking spaces, including 4 no. disabled parking spaces will be provided beneath the podium with access off Feethams. Pedestrian access onto the podium level will be gained via steps and a ramp at the south east corner of the scheme, by steps and a lift in the north west corner and via steps from the riverside walkway. The proposed cinema, hotel and units will also be accessible from within the podium or from street level.

In support of the application, the following information has been submitted:

- Planning Statement
- Design and Access Statement
- Flood Risk Assessment
- Ground Investigation Report
- Habitat and Wildlife Survey
- Statement of Community Involvement
- Transport Assessment
- Travel Plan
- Archaeological Evaluation

A request for a screening opinion, as to whether the development requires the submission of an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, has also been submitted. The Council has issued a screening decision confirming that the development is not likely to have any significant effects on the environment and that the proposal does not require an Environmental Statement under the terms of the EIA Regulations 2011.

An application for the formation of hard and soft landscaping works (13/00875/FUL) on land to the south and east of the application site, adjacent to the proposed development, has also been submitted and is awaiting determination under delegated powers.

PLANNING HISTORY

97/00644/OUT – Outline application for construction of a multiplex cinema development and other leisure development (class D2) food and drink development (class A3), multi-storey car park, relocation of area for storage of market stalls, bus and coach lay-by facility within servicing and access. REFUSED 28 FEBRUARY 2001

06/00229/FUL – New fascia to office elevation. GRANTED 15 MAY 2006

08/00597/DC – Demolition of former bus station and change of use to public car park. GRANTED 29 AUGUST 2008

09/00193/DC – Erection of plant compound with new external wall to basement void and alterations to proposed car park (additional information and amended plans received 1 May and 1 June 2009). GRANTED 1 JULY 2009

12/00766/ADV – Display of 2 no. non-illuminated development site boards. GRANTED 8 JANUARY 2013

13/00875/FUL – Formation of hard and soft landscaping areas including alterations to and extension of existing foot and cycle paths together with installation of outdoor seating areas and cycle parking (amended landscape masterplan received 14 November 2013) AWAITING DETERMINATION

PLANNING POLICY BACKGROUND

The following policies are relevant to consideration of the application:

National Planning Policy Framework

Darlington Core Strategy Development Plan Document 2011

- CS1 – Darlington's Sub-Regional Role and Locational Strategy
- CS2 – Achieving High Quality, Sustainable Design
- CS3 – Promoting Renewable Energy
- CS4 – Developer Contributions
- CS6 – Vibrant Cultural and Tourism Offer
- CS7 – The Town Centre
- CS14 – Promoting Local Character and Distinctiveness
- CS15 – Protecting and Enhancing Biodiversity and Geodiversity
- CS16 – Protecting Environmental Resources, Human Health and Safety
- CS17 – Delivering a Multifunctional Green Infrastructure Network
- CS19 – Improving Transport Infrastructure and Creating a Sustainable Transport Network

Saved Policies of the Darlington Local Plan 1997

- E2 - Development Limits
- E3 – Protection of Open Land
- E12 – Trees and Development
- E14 – Landscaping of Development
- E18 – The River Skerne

- E21 – Wildlife Corridors
- E37 – Enhancement of the Built Environment
- R3 – Public Facilities in New Buildings
- S5 – Town Centre Food and Drink Uses
- T14 - Private Car Access to the Town Centre
- T17 – Rear Servicing
- T22 – Priority in Central Car Parks
- T32 – Feethams Bus Station
- T36 – Cycle Route Network

Revised Design of New Development Supplementary Planning Document 2011 (Design SPD)
Feethams Planning and Development Brief 2008
Town Centre Fringe Masterplan 2012

RESULTS OF CONSULTATION AND PUBLICITY

English Heritage

St Cuthbert's Church dates back to the 12th Century. Its significance is broad and varied but it is its townscape value which is critical in assessing this proposal. Within the conservation area, the townscape is of a fine grain, typical of medieval burgage plots. Outside of the conservation area, the townscape is more coarse with large civic buildings set back within areas of parking and landscaping. I accept the principle of development of the site and appreciate that the setting of heritage assets will change. I am satisfied that the proposed development would not affect the significance of the Town Centre Conservation Area. However I am concerned about the impact of a 6-storey building upon the setting of the church. I do think it would be harmful to the church's setting but the harm would be less than substantial. The National Planning Policy Framework states that such harm should be weighed against the public benefits of the proposal (para. 134). This is a judgement for the Local Planning Authority but as the application stands, and for the above reason, I am unable to support the application. As such, I recommend that further design work is carried out to reduce the height of the building adjacent to the river.

Environment Agency

No objections to the proposal as submitted, subject to conditions being imposed relating to contamination, piling/foundation design and flood risk assessment.

Darlington Association on Disability

Reinforce holding objection on the grounds of inefficient access for disabled people at the north west corner of the development. The installation of a lift is not reasonable as they often break down and places vulnerable people in a dangerous situation. The proposed lift is a tick box exercise so it meets regulations, without any thought to it working for the lifespan of the development. DBC and its officers have a duty to promote disability equality but by condoning the inclusion of this lift, they are not fulfilling this duty. Policy CS2 and the Design SPD state there should be access for all including disabled people, but this lift would deter most disabled people from using this access point.

CPRE

Wish to strongly support the proposals. This is an area of the town centre which has long needed rejuvenation. We all hope this scheme will come to fruition and this area of town reaches its full potential.

Durham County Archaeology

The applicant has supplied the results of a pre-determination archaeological evaluation. The aim of the evaluation was to test the potential for intact buried archaeological remains below the remains of the 1960s bus station. Four trenches were placed across the site. No features of any archaeological significance were recorded in situ nor was there any indication, based on the presence of residual finds, that there was any significant activity pre-dating the 18th century which would impede development.

Raise no objections to the proposal and do not recommend any archaeological conditions be placed on the development should it be granted.

Northumbrian Water

A major Public Trunk Sewer 2m square crosses the site running diagonally along its eastern boundary and is shown built over in the application. Northumbrian Water will not permit a building over or within 8 metres of its apparatus. Diversion or relocation of the apparatus may be possible at the applicant's cost. We will be contacting the developer/agent to notify them of the build over situation, however, for planning purposes the presence of our assets could impact upon the layout of the scheme as it stands. NWL confirms that there is sufficient capacity for foul and surface water from the development to discharge into the public sewers.

Northern Gas Networks

No objections to these proposals.

Highway Engineer

The proposed development results in a net reduction of available car parking spaces for the town centre to the order of 184 spaces. An overall assessment of parking within the town centre has been carried out and it is concluded that there is sufficient capacity within the remaining town centre car parks to supply the demand for the weekday and Saturday peaks including the generated traffic from the mixed use development. As part of the proposals a new 80 space car park is being constructed to cater for the mixed use development; however this car park will also be made available to the general public. Due to the construction of other developments in the vicinity, a car parking strategy is being produced by Darlington Borough Council which will assess the impact of the developments or redistribute car parking provision accordingly, however this strategy does not form part of this application.

An assessment of the development generated traffic has been reviewed taking into account the Travel Plan and reductions for shared trips and incorporating good public transport provision and changes of mode of travel to walking/cycling to the town centre. A capacity assessment of Feethams/A167 St Cuthbert's Way/Victoria Road roundabout has been carried out and this shows that the roundabout will be within acceptable capacity limits for the base and future years including development traffic.

Since the highway network is designed to accommodate the existing car parks at full capacity, it is considered that no further local highway assessments are required at this stage for the proposed development and also taking into account the proposed highway improvements on the inner ring road to be in place in the near future.

Raise no highway objection to the proposal subject to conditions being imposed to secure details of cycle parking and storage, a construction management plan including details of wheel washing, a dust action plan, hours of construction, vehicle routes, compound set up and temporary parking arrangements for the general public and construction staff, road maintenance and signage.

Transport Policy

From the plan there are 22 stands located within the parking area which should provide parking for up to 44 cycles. Cyclists should be able to easily access the cycle parking, from the plan it looks like access is restricted when all the parking spaces are full. I understand that the car park is enclosed and therefore sheltered from the rain. Cycle parking for use by staff should be more secure than that used by the public for short visits. This should either be by secure cycle lockers or a shelter accessed by key or contactless card. Recommend replacing two of the blocks of eight stands within the car park with stands enclosed in a secure shelter or using secure cycle lockers. Recommend the stands located outside of the car park, close to the entrance to the cinema lobby be covered by an open shelter.

Environmental Health – Pollution

The application has been submitted together with a Ground Investigation Interpretive Report which has identified that levels of contamination of soils are generally below levels of contamination suitable for a commercial end use. Further issues still need to be addressed following the site investigation and further conditions requiring the submission of a Phase 3 Remediation Statement and Phase 4 Validation Report be undertaken and submitted.

Environmental Health – Commercial

No objections to the application. There is no detail provided as to what plant and equipment is to be on site and where it is to be located and what type of noise mitigation measures (if any) are planned. Request that standard conditions, requesting details for the storage of refuse and waste and details of ventilation, plant and machinery be applied to the permission. A condition controlling the hours of operation during the construction period is also recommended. Any issues relating to noise from entertainment from the licensed unit will be dealt with under the Licensing regime.

Conservation Officer

Understand the concerns English Heritage have raised about the height of the building and the likely negative impact this will have on the setting of St Cuthbert's Church. Not of the opinion however that the development will cause substantial harm to the significance of heritage assets. The development's impact on the conservation area should be less considering the patterns of larger buildings towards the south east edge of the conservation area.

Ecology Officer

The Habitat Survey is acceptable with no obvious impact on protected species, other than to condition the timing of the removal of vegetation to outside the bird breeding season. A sympathetic lighting scheme is needed to ensure the River Skerne and its vegetated bank side remain dark.

The application was publicised by way of a press advert and three site notices were posted on and around the site. In addition 140 letters were sent to neighbouring properties and businesses notifying them of the application. No responses have been received as a result of this publicity exercise.

PLANNING ISSUES

The main issues relevant to consideration of this application are as follows:

- Planning Policy
- Design
- Impact on Heritage Assets
- Access and Transport
- Environmental Impacts
- Statement of Community Involvement

Planning Policy

Core Strategy Policy CS7 (Town Centre) encourages sites within the defined Town Centre boundary to be developed for non retail purposes such as leisure and entertainment uses. The policy specifically identifies the 'Feethams/Beaumont Street area' as being a locational priority for these types of uses. The site is part of the Town Centre Fringe Masterplan which amongst other things seeks to encourage employment opportunities; increase the cultural offer in central Darlington and enhance the setting of the River Skerne corridor opening up opportunities for access to this area as a place to enjoy.

The Feethams Planning and Development Brief was adopted in 2008 to guide the redevelopment of this area, setting out a series of appropriate uses and design parameters. The Brief highlighted the opportunities this area would provide in terms of raising the level of visitor attractions, bringing additional footfall to the town centre and significantly enhancing a prominent gateway location. Policy CS7 incorporates many of the land-use objectives set out in the brief by identifying the overall Feethams/Beaumont Street area as a priority location for major non-retail town centre uses. In addition, section 2 of the NPPF maintains the town centre first policy for proposals such as those promoted by this application.

There is therefore very strong policy support in place for the principle of the proposed development.

Saved Local Plan Policy T32 (Feethams Bus Station) relates to the improvement or replacement of bus and coach facilities on the site. This policy is now out of date and has been superseded by the more recently adopted Core Strategy policies for the area, including Policy CS7. It is important to bear in mind that the NPPF indicates that less weight should be given to Development Plans adopted before 2004 than more up to date policies. The Local Plan was adopted in 1997 with subsequent alterations adopted in 2001.

With regard to saved Local Plan Policy E3 (Protection of Open Land) a small landscaped area between the application site and ring road is designated as open land. This policy states that in considering proposals to develop any area of open land the Council will seek to maintain its usefulness and enhance the appearance and nature conservation interest of the open land system. This area forms part of the open land network along the River Skerne corridor though it is small and isolated.

While the proposed development would result in the loss of this area of open land, the Phase 1 Habitat Survey confirms that all habitats at the site are assessed to be of low ecological value. In addition the application proposes areas of soft landscaping within the podium area which will

provide satisfactory mitigation against the loss of this area. In this instance the loss of this small area of open land is not considered to compromise the appearance or nature conservation interest of this part of the wider network.

The principle of the proposed development is therefore strongly supported by the Council's up to date policy framework. Consideration must however be given to the following development management issues:

Design and Impact on Heritage Assets

Policy CS2 (Achieving High Quality, Sustainable Design) requires that high quality, safe, sustainable and inclusive design will be promoted in all new developments, making efficient use of land, existing buildings and resources and reflecting or enhancing Darlington's distinctive natural, built and historic characteristics that positively contribute to the character of the local area and its sense of place. Policy CS14 (Promoting Local Character and Distinctiveness) states that the distinctive character of the Borough's built, historic, natural and environmental townscapes, landscapes and strong sense of place will be protected and enhanced where appropriate. In particular the policy seeks to protect and improve the distinctive character of Darlington town centre including the character and appearance of the central area skyline, and of particular relevance to this site, St Cuthbert's spire.

The proposed development will incorporate a variety of buildings on the site ranging from 2, 3 and 6 storeys in height arranged around a public space at a raised podium level. The development has been designed to be directly accessible and have active frontages onto Feethams, St Cuthbert's Way, the riverside along the River Skerne and from the 'internal' part of the development at podium level. It is considered that this will lead to a vibrant cultural offer and open up opportunities to access and enjoy the River Skerne corridor as this area becomes progressively regenerated. A palette of materials, including brick, stone, render and glass will be used which the Design and Access Statement explains have been chosen to reflect materials already utilised within the town centre and to reflect aspects of the town's industrial heritage. At street level the scheme incorporates brick arches which take their inspiration from Darlington's railway and industrial architecture, with the arches serving as the frontages and entrances to the hotel and leisure uses. At podium level and above a more contemporary design utilising a palette of materials and finishes is proposed which the Feethams Development Brief highlights as being traditional and appropriate for the area. The building is designed to be energy efficient and the applicant is seeking to achieve a BRE AAM 'very good' rating. In terms of plot usage and the palette of materials the proposal accords with the guidance set out in the Council's Revised Design of New Development Supplementary Planning Document (Design SPD).

The site is located to the south east of the Town Centre Conservation Area and is also within close proximity to listed buildings at 11 and 12 Houndgate to the west and also St Cuthbert's Church to the north, a Grade I listed building. The development will change the setting of heritage assets in the surrounding area and this has been considered within the submitted Design and Access Statement. A viewpoint analysis has also been undertaken on the basis of 12 agreed viewpoints around the site and forms part of the Design and Access Statement.

The National Planning Policy Framework (NPPF) makes clear that where a proposal will lead to substantial harm or total loss of significance of a heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. In cases where a 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, including securing its optimum viable use.

The Town Centre Conservation Area boundary is located approximately 80 metres to the north west of the application site. The proposed development will be visible in views both into and out of the Conservation Area. Although the proposal is of a larger scale and mass than the buildings within the Conservation Area itself, it is considered to be sympathetic in scale with other buildings beyond the Conservation Area boundary, such as the Town Hall and the Dolphin Centre, which typically have a larger footprint. As such the proposed development is not considered to affect the significance of the Town Centre Conservation Area.

The setting of the Grade II listed buildings at 11 and 12 Houndgate to the west of the application site will change as a result of the proposed development. The Design and Access Statement considers that the significance of these buildings is based upon their architectural interest and age rather than their setting which has changed significantly over the years. The replacement of the large expanse of surface level car parking with the proposed building is considered to have a negligible impact upon the significance of these buildings.

English Heritage has commented on the application as a statutory consultee and advised that the principle of development on the site is accepted and it is understood that the setting of heritage assets will change. They are satisfied that the proposed development would not affect the significance of the Town Centre Conservation Area, however are concerned about the impact of a 6-storey building upon the setting of the church and its impact on the physical and visual prominence of the church in the townscape. Whilst English Heritage considers that the development would be harmful to the Church's setting it considers the harm would be less than substantial. In accordance with the NPPF such harm should be weighed against the public benefits of the proposal. While this is a judgement for the Local Planning Authority, English Heritage has advised that they are unable to support the application and recommend that further design work is carried out to reduce the height of the hotel building adjacent to the river.

St Cuthbert's Church is located approximately 150 metres to the north of the application site. The townscape value of the Church, as a prominent, landmark building is key in assessing this proposal. In particular its spire and roof are a particularly striking landmark. The Design and Access Statement considers that the hotel element at the north eastern most part of the scheme uses high quality, contemporary materials, incorporating elements that reflect local vernacular and industrial architecture selected so as not to compete with the visual prominence of the church in the wider townscape.

The nearest part of the development at its northern side would be approximately 160 metres from the church spire, with the Town Hall and the new 4-storey office building currently under construction to the rear for the DfE, occupying the intervening land. The church is set in a spacious, wooded churchyard with further semi-mature trees alongside the River Skerne which would not be affected by the proposed development and which serves to maintain the attractive immediate setting of the building.

Furthermore the proposed buildings vary in height with the tallest part of the development (some 6 storeys) limited to the units on the eastern side of the site comprising the hotel and some of the smaller units. The Council's Design SPD identifies that 5-storey buildings within Zone 1 are appropriate but that where buildings exceed 4 storeys, a parapet or setback should be used to demarcate the top of the wall. Although in this case part of the development is some 6 storeys in height the upper floors of the hotel would be set back from the leisure units beneath at ground

floor and podium levels respectively. This has the effect of providing significant visual relief to this part of the development further reducing its impact upon the setting of the church.

The concerns of English Heritage regarding the impact of the development on the setting of the church are acknowledged however taking the above factors into account Officers do not consider that the significance of the church would be harmed by the proposed development.

Paragraph 134 of the NPPF states that less than substantial harm to the significance of a heritage asset should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this instance the proposed development would result in the regeneration of a prominent town centre site, replacing a somewhat sterile expanse of car park with an attractive contemporary building and bringing long awaited leisure and entertainment uses to the town, while securing a substantial amount of employment (expected to be in the region of 300 jobs). Even if it was accepted that there was less than substantial harm to the setting of the church arising from the development as concluded by English Heritage, the aforementioned benefits which are reflected in the strength of Council policy in favour of the development are considered to outweigh any such harm, such that paragraph 134 of the NPPF would be satisfied.

A pre-determination archaeological evaluation has been submitted which presents the findings of intrusive trial trench investigations on the site. The evaluation confirms that no features of any archaeological significance were recorded in situ nor was there any indication, based on the presence of residual finds, that there was any significant activity pre-dating the 18th century which would impede development. Durham County Archaeology Department has confirmed they have no objections to the proposal and do not recommend that any archaeological conditions be placed on the development should it be granted.

Access and Transport

Core Strategy Policy CS2 (Achieving High Quality, Sustainable Design) states that high quality, safe, sustainable and inclusive design will be promoted in all new developments. With particular regard to access and transport issues, the policy requires that all developments should support inclusive communities, by providing links to existing networks to ensure safe, convenient and attractive access for pedestrians, cyclists, public transport users and for disabled people and provide vehicular access and parking suitable for its use and location, reflecting appropriate parking standards set out in the Tees Valley Highway Design Guide.

A Transport Assessment (TA) has been submitted with the application which has been considered by the Council's Highway Engineer. An 80 space car park will be provided to serve the development and will also be available for use by the general public. While the proposed development will result in the net reduction of 184 car parking spaces the TA has undertaken an assessment of parking within the town centre and concludes that there is sufficient capacity within the remaining town centre car parks to meet the demand for the weekday and Saturday peaks including traffic generated from the proposed development. It should also be noted that the car park was only ever intended to be an interim use on this site pending its redevelopment and not part of the long term parking strategy for the town.

Due to the construction of other developments within the vicinity, including the office development for the Department for Education currently underway to the rear of the Town Hall, a car parking strategy is being produced by the Council to assess the impact of the developments and redistribute car parking provision accordingly. However this strategy is well advanced and the Council has resolved to support the development of a new multi story car park in accordance

with the Feethams Development Brief to accommodate future town centre car parking needs in this part of the town.

A capacity assessment of Feethams/A167 St Cuthbert's Way/Victoria Road roundabout has been carried out and shows that the roundabout will be within acceptable capacity limits for the base and future years including the development traffic. The site is well served by public transport and is easily accessible on foot and by bicycle. A total of 44 cycle parking spaces are to be provided to serve the development. The Highway Engineer accepts the findings of the TA and has also advised that since the highway network is designed to accommodate the existing car parks at full capacity, no further local highway assessments are considered necessary.

Plans providing details of visibility splays and swept path analyses of how emergency vehicles, refuse vehicles etc would manoeuvre within this site have been provided and the Highway Engineer has advised that on the basis of the additional details conditions relating to these matters are no longer required.

The scheme will link into existing pedestrian and cycle routes. For information a separate landscaping application has been submitted by the applicants (13/00875/FUL) which seeks to enhance these routes. A condition is also attached requiring the submission of a Construction Management Plan to deal with issues relating to construction impacts of the development upon the local highway network.

The request for shelters to be provided over the cycle stands on the southern side of the development is noted however in this instance the introduction of a shelter in this prominent location, highly visible from the A167/Feethams roundabout would compromise the appearance of the proposed development. Covered cycle parking would be provided within the undercroft parking area within the scheme. Concerns regarding the accessibility of cycle parking within the car park when full have now been addressed.

Pedestrian access through the site will be gained via a stepped and ramped access in the south east corner, by steps from the east side adjacent to the River Skerne and by a set of steps and a lift in the north west corner. The original submitted application did not include any access arrangement suitable for people with mobility impairments or for people with push chairs or wheeled suitcases at the north west corner on to Feethams. Officers subsequently negotiated the amended plans that are now before the Committee for consideration that show an external lift arrangement to overcome this issue. Pedestrian and cycle access will also be provided around the perimeter of the site, the details of which form part of the landscaping application. There will also be a lifts within the cinema, hotel and within Leisure Unit 4 which will allow access from the ground floor of the development to the podium level.

Darlington Association on Disability (DAD) have objected to the scheme on the grounds of a lack of ramped access on the Feethams side of the development and the potential of the lift to breakdown and discourage disabled people to access the north west corner of the development. The Transport Policy Section has also expressed concern regarding the lack of a continuous, accessible route from Feethams to the Inner Ring Road across the podium.

Officers have discussed with the developer the possibility of including a ramp at the north west corner of the site. In response the developer provided drawings to demonstrate that it is not feasible to introduce a gradient compliant ramp in this location, either in the form of a single length or returning ramp, allowing for level changes across the site and the proposed points of

access to both the undercroft car park and servicing areas. However the developer was agreeable instead to the provision of a lift alongside the stepped access in this part of the site.

The addition of the lift at this point in the scheme will provide an access arrangement to meet the needs of all the community to the podium area and across the site. The proposed lift, being independent of either the cinema, hotel or leisure units will be available for use when these units are closed. Whilst it is acknowledged that a well-designed ramp access may be preferable to some users, it is considered that others may prefer the convenience of a lift. Ultimately the planning test is whether the proposal is acceptable in inclusive design terms. In considering this issue the lift solution is considered to be reasonable in the context of the management arrangements for the development. Conditions are attached requiring that both the ramped access in the south east corner and lift in the north west corner are provided prior to the development first being brought into use and also requiring that the lift is maintained in working order. In addition the development will be accessible around the periphery of the site should visitors choose not to access the podium level. These amended arrangements are considered to ensure safe, convenient and attractive access in keeping with the requirements of Policy CS2.

Environmental Impacts

Core Strategy Policy CS16 (Protecting Environmental Resources, Human Health and Safety) states that new development should protect and, where possible, improve environmental resources, whilst ensuring there is no detrimental impact on the environment, general amenity and the health and safety of the community. Development which may have an adverse impact on environmental resources should be avoided.

A ground investigation has been undertaken to assess ground conditions and potential contamination on the site. While the submitted report identifies that levels of soil contamination are generally below levels suitable for a commercial end use, the Council's Environmental Health Officer (Pollution) has identified that further issues need to be addressed following the site investigation and has recommended conditions be attached requiring a remediation strategy and validation report be undertaken and submitted. The Environment Agency has also considered the report with specific regard to controlled waters and raises no objection to the application on the basis that similar conditions be attached.

The application site, which lies adjacent to the River Skerne, is located in Flood Zone 2. A Flood Risk Assessment (FRA) has been submitted with the application to consider the impact of the development both in terms of flood risk and surface water drainage. In terms of flood risk, the proposed ground floor levels will be set at 38.1m and 38.4m AOD and will therefore exceed the modelled level of 37.53AOD for a 1 in 200 year flood event for the area. Surface water from new buildings and hard standings will be attenuated on site and released at a controlled rate to the existing public sewer network, based on a reduction on the current existing discharge rate. The Environment Agency has considered the FRA and raises no objection to the application on this basis, subject to a condition requiring that the development be carried out in accordance with the submitted FRA and the various mitigation measures contained therein.

Northumbrian Water (NWL) has identified that a 2 metre square major public trunk sewer crosses the site in a diagonal position adjacent to the eastern boundary of the site and is shown built over in the application. Diversion or relocation of the apparatus may be required but would be at the applicant's cost. The presence of the apparatus may however impact upon the layout of the scheme as submitted. The applicant's agent has confirmed that they have been in discussion with NWL regarding the presence of the sewer on the site but that its precise location and the extent of any easement is not known. In the event that planning permission is granted

then excavation works will be undertaken to determine the exact location of the sewer. Any necessary changes to the scheme as the result of the sewer would need to be subject of a revised planning application however the presence of the sewer does not prejudice the determination of this planning application. NWL has also confirmed that there is sufficient capacity within the existing sewer network to deal with foul and surface water arising from the proposed development.

The site lies within a town centre location, surrounded by other commercial uses, where activity associated with the range of leisure uses proposed could readily be accommodated without detrimental impact upon the amenities of the surrounding area. In this regard it is not considered necessary to impose any control on the hours of opening of the cinema, restaurant or leisure units.

The Environmental Health Officer (Commercial) has requested that a condition be attached relating to the hours of construction activities to protect the amenities of those residential properties located to the south and south east of the site at South Terrace, Victoria Embankment and Victoria Road. It is suggested that this condition be amalgamated into a single condition relating to the submission of a Construction Management Plan requested by the Highway Engineer to consider all impacts of the construction process.

Conditions are also attached relating to the storage of refuse and waste, ventilation associated with the proposed restaurant units and external plant.

Core Strategy Policy CS15 (Protecting and Enhancing Biodiversity and Geodiversity) states that the protection, restoration, extension and management of the Borough's biodiversity and geological network will be delivered by conserving, restoring and enhancing sites and areas identified as having high biodiversity and geodiversity value, ensuring that new development would not result in any net loss of existing biodiversity value by protecting and enhancing the priority habitats, biodiversity features and the geological network through the design of new development, restricting or managing access and use to conserve an area's existing biodiversity value, protecting and enhancing ancient woodland, trees and hedgerows and protecting and improving watercourses, buffer strips and wetland.

Although the majority of the site is covered by an existing surface car park, there are areas of amenity grassland and a small number of trees and ornamental shrubs along the south and south east boundaries of the application site which would be lost as a result of the proposed development. An Extended Phase 1 Habitat Survey has been undertaken and submitted with the application which considers the impact of the proposed development on habitats and protected species.

The survey concludes that all habitats on the site were assessed to be of low ecological value. In addition, the survey found no evidence of any recent or historical bird nest behaviour within the trees and shrubs on the site, no potential bat roosting features or of any badger activity on the site. The adjacent watercourse was also surveyed for the presence of water voles and otters and no evidence of activity was found in respect of these protected species. Although the survey identifies that the site offers limited terrestrial habitat for use by great crested newts within the under storey of the shrub vegetation, it was considered highly unlikely that this species would be present given the lack of suitable water bodies or other suitable habitats within proximity to the site. The Council's Ecology Officer concurs with the findings of the survey.

While no evidence of nesting birds was found at the time of the survey, opportunities do exist within the trees and shrubs for nest building. The survey therefore recommends that if the removal of the trees and shrubs is undertaken during the bird breeding season (March – September inclusive) then a nesting bird survey should be undertaken prior to work commencing. The Ecology Officer recommends that a lighting condition be attached to ensure that sympathetic lighting is used to ensure the River Skerne and its vegetated bank side remain dark.

Although the loss of the trees and shrubs around the periphery of the site is unfortunate none of these trees are considered to be of significant amenity value in the wider streetscene.

Statement of Community Involvement

Pre-application consultation has been undertaken by the applicants prior to the submission of the application, in accordance with the guidelines set out in the Council's Statement of Community Involvement document. The findings of this consultation event have been set out in the Statement of Community Involvement submitted with this application. Overall the feedback from the pre-application consultation was positive, with the statement setting out how the design of the development has evolved in response to the pre-application consultation.

Conclusion

The re-development of the site for leisure uses is a long standing priority for the site, dating back to the adoption of the Feethams Planning and Development Brief in 2008 and identified in Core Strategy Policy CS7 (The Town Centre) adopted in 2011. As such the principle of development is in accordance with up to date planning policies for the site and in conformity with the NPPF which presumes in favour of sustainable development.

It is considered that the proposed development's overall design, scale, massing and use of materials is acceptable in the context of the existing natural and built environment. The development is not considered to harm the significance of heritage assets, however were it to be considered that there was less than substantial harm to the setting of the adjacent Grade I listed St Cuthbert's Church in keeping with the views of English Heritage the public benefits of the proposal in terms of securing the development of a major town centre site and associated jobs, are considered to outweigh this harm.

A Transport Assessment has demonstrated that the local highway network can accommodate traffic generated from the proposed development. The site is well served by public transport and is accessible by a range of means of transport. The scheme has been amended to include a lift in the north west corner providing a choice of steps, ramp and lift access to allow members of the public to access the development and cross the site at podium level. The proposal in this regard is considered to comply with the requirements of Policy CS2.

It is anticipated that environmental impacts will not be significant and where necessary, be minimised by appropriate mitigation measures.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The proposed development has been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The proposed scheme will incorporate active frontages around the periphery of the site and within the internal parts of the development that will allow for a high standard of surveillance over

communal areas. Furthermore, in the interests of safety and security a condition can be imposed to ensure that a suitable lighting scheme is installed and therefore the proposed development would not be expected to give rise to crime and disorder issues.

RECOMMENDATION

THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

1. A3 (Standard 3 year time limit)
2. B4 (Details of external materials)
3. B5 (Development in accordance with approved plans)
4. A Phase 3 Remediation Strategy for the remediation of land and groundwater contamination affecting the site determined through risk assessment shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of the development. The works specified in the Phase 3 Remediation Statement shall be implemented and completed in accordance with the agreed Remediation Statement by competent person(s), no alterations to the Remediation Statement or associated remediation works shall be carried out without the prior written agreement of the Local Planning Authority.
REASON – To adequately deal with contamination on the site to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection.
5. A completion report (Phase 4 Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.
REASON - To adequately deal with contamination on the site to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection.
6. Any contamination not considered in the Phase 3 Remediation Statement but identified during the construction/remediation works shall be subject to further risk assessment and remediation proposals agreed in writing with the Local Planning Authority and the development completed in accordance with any further agreed amended specification of works prior to occupation of the development.
REASON - To adequately deal with contamination on the site to ensure that the proposed development can be implemented and occupied with adequate regard to environmental and public protection.
7. No unit permitted shall be brought into use until details of the arrangements for the storage of refuse and waste within the common parts of the scheme have been submitted to and approved by the Local Planning Authority. The storage and disposal of waste shall not be carried out unless in accordance with the approved arrangements.
REASON - To safeguard the amenities of the area.
8. Prior to the first occupation of each unit, a scheme for the effective control of fumes and odours from that unit shall be submitted to, and approved by, the Local Planning Authority.

The scheme shall show, for each unit wherein cooking equipment other than a domestic oven or microwave oven is required, typical details of equipment for the extraction of cooking fumes and odours, and shall include details of all grease and carbon filtration systems, and any ductwork, duct routes and termination points that are external to the building, and details of the acoustic qualities of the system, including any noise and/or vibration attenuation measures. No individual unit wherein such equipment is required shall be brought into use before the equipment (as approved) has been installed and, thereafter, the equipment shall be retained in accordance with the approved details.

REASON – To safeguard the amenities of the area.

9. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

REASON - To ensure that risks to controlled waters are adequately addressed.

10. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by BGP 121727/RFA 001E and the following mitigation measures detailed within the FRA:

- a. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven;
- b. Finished floor levels are set no lower than 38.1m above Ordnance Datum (AOD);
- c. Surface water drainage is directed to the public sewerage system at the reduced rate highlighted in the FRA and with agreement from Northumbrian Water.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

REASON – To ensure safe access and egress from and to the site. To reduce the risk of flooding to the proposed development and future occupants. To ensure satisfactory method of surface water drainage proposal.

11. Prior to the commencement of the development hereby permitted, a Construction Management Plan shall be submitted and approved in writing by the Local Planning Authority. The Plan shall include details for wheel washing, the proposed hours of construction including any piling activities, vehicle routes, compound set up and temporary parking arrangements for construction staff, road maintenance and temporary signage. The development shall not be constructed otherwise than in complete accordance with the approved details.

REASON – To safeguard the amenities of the area.

12. No unit hereby permitted shall be brought into use until precise details showing the on site pedestrian infrastructure proposed to link into the surrounding network including, but not limited to, permanent signage (where applicable), locations of the dropped crossings and tactile paving from the disabled parking bays within the car park to the main accesses, dropped crossings and tactile paving locations on the access road to external linking footway routes have been submitted to and approved in writing by the Local Planning Authority. The approved infrastructure shall be completed and available for use prior to the occupation of the development hereby permitted.

REASON – In the interest of the safety of users of the highway

13. Unless otherwise agreed in writing by the Local Planning Authority no unit hereby permitted shall be brought into use until cycle parking facilities have been provided in accordance with cycle parking plan reference 2017 dated 22 August 2013. The facilities shall subsequently be maintained in accordance with the approved details.
REASON – To enable the site to be accessed by a range of means of transport.
14. No unit hereby permitted shall be brought into use until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be confirm the process for the implementation of the measures and monitoring programme, as set out in sections 6.0 and 7.0 of the Framework Travel Plan dated September 2013 prepared by Mayer Brown, unless otherwise first agreed in writing by the Local Planning Authority. The development hereby approved shall thereafter be operated in accordance with the approved Travel Plan.
REASON – In order to promote sustainable means of travel to the site.
15. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2005 as amended (or any order revoking and re-enacting that Order) any unit brought into use within Classes A3, A4 or D2 shall not subsequently be brought into Class A1 or A2 use.
REASON – To comply with the requirements of Policy CS7 (Town Centre) of the Darlington Core Strategy Development Plan Document.
16. No unit hereby permitted shall be occupied until details of a lighting scheme have been submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development hereby permitted.
REASON – In the interests of ecology and the security and surveillance of the site.
17. No tree and shrub removal shall take place within the bird breeding season (March to September inclusive) unless a nesting bird survey has first been undertaken and submitted to and approved in writing by the Local Planning Authority.
REASON - In the interest of nesting birds.
18. No unit hereby permitted shall be occupied until the lift in the north west corner of the development has been provided and is available for use in accordance with drawing numbers 2010 Revision P1, 2011 Revision P1 and 2200 Revision P1 dated 22 August 2013. Thereafter the lift shall be maintained in working order.
REASON – To ensure that the site remains accessible to pedestrians.
19. No unit hereby permitted shall be occupied until the ramp and stepped access in the south east corner of the development has been provided and is available for use in accordance with drawing numbers 2011 Revision P1, 2201 and 9001 dated 22 August 2013.
REASON – To ensure that the site remains accessible to pedestrians.
20. The landscaping of the podium area shall be carried out in accordance with the details shown on drawing number 0569-1Podium Rev C dated February 2013 and such landscaping shall be fully implemented prior to occupation of the development, or within such extended period as may be agreed in writing by the Local Planning Authority, and thereafter any trees or shrubs removed, dying, severely damaged or becoming seriously diseased within a period of 5 years from planting shall be replaced by a tree or shrub of the

same size and species in the same place unless the Local Planning Authority agrees to any variation.

REASON – To ensure a satisfactory appearance of the site and in the interests of visual amenity.

21. Development shall not commence until details of the junction between the access road and the highway have been submitted to and approved in writing by the Local Planning Authority. No units hereby permitted shall be brought into use until that junction has been constructed in accordance with the approved details. The access roads and footways within the site (excluding the podium area) shall be constructed to an adoptable standard prior to any part of the development being brought into use. REASON – In order to ensure the provision of a satisfactory standard of access.

INFORMATIVES TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED

The developer is required to submit detailed drawings of the proposed off site highway works including advance direction signage to be approved in writing by the Local Planning Authority and enter into a Section 278/38 Agreement before commencement of the works on site. Contact must be made with the Assistant Director – Highways, Design and Projects (contact Mr S Pryke 01325 388755) to discuss the matter.

The applicant is advised that contact must be made with the Assistant Director – Highways, Design and Projects (contact Ms P Goodwill 01325 388760) to discuss naming and numbering of the development.