

Durham City Neighbourhood Plan Reg.16 Consultation Responses

Representation made by Durham County Council as part of Regulation 16 Submission Draft publication and submitted to the independent examiner pursuant to paragraph 9 of Schedule 4B to the 1990 Act



Policy / Section	DCC Comment
Theme 1	
<p>S1</p>	<p>There is a concern that this policy replicates policy content (e.g. Policy 30 Sustainable Design) from the emerging County Durham Plan. There is a risk that this could cause uncertainty and confusion in application as the terminology is different, and, is often less accurate and detailed, compared to the County Durham Plan.</p> <p>If the policy is to be retained the Council has the following concerns to raise:</p> <ul style="list-style-type: none"> • As written criteria 'd' & 'e' require proposals to both conserve/protect and enhance, which is a higher test than set down in national and local guidance. • Criterion 'k' would benefit from being amended so that SUDs are only a requirement where they are appropriate.
<p>Figure 1 (Paragraph 2)</p>	<p>Reference should be made to the Council's Climate Emergency Plan which was adopted on the 12 February 2020.</p>
<p>S2</p>	<p>The Council continues to question the need for this policy. Most sites would require full planning consent in any event given conservation area status of a large portion of the neighbourhood area to which the plan relates. It is not clear what additional benefit would arise from having the policy unless, perhaps, it applies to outline planning applications.</p> <p>The policy text refers 'large sites', while the supporting text seems to refer to major development so the policy text should be changed to reflect this.</p>
Theme 2a	
<p>Theme 2a (General)</p>	<p>The Council are concerned that Objective 1 sets a higher bar than NPPF as it requires both actions. There may be instances where a neutral impact would be acceptable.</p> <p>In terms of Objectives 1 & 4, the Council would encourage the use of 'sustain' rather than 'conserve' so that the neighbourhood plan is consistent with local and national policy context.</p>
<p>H1</p>	<p>The Council continue to have concerns about the scope and need for this policy. It is considered that H1 misses opportunities to provide detailed guidance in support of strategic guidance within existing and emerging local plans. The policy wording in H1 differs from the wording set down in existing and emerging local plan which may result in confusion.</p> <p>If the policy remains the Council consider that the following revisions could help make the policy effective:</p> <ul style="list-style-type: none"> • Criterion 'a' is not worded as a criterion to determine a planning application as it lacks detail on how it would be applied. Also, it could be reworded to aid this, as follows: 'demonstrate account has been taken of both...'

	<ul style="list-style-type: none"> Consider revisions to criteria 'f' and 'g' to acknowledge that there will be instances where text between these are not appropriate. Furthermore, it is noted that parts of the neighbourhood plan area will be outside of the setting of the WHS and some proposals will have no inter-visibility with the WHS.
<p>H2</p>	<p>The Council continue to have concerns about the scope and need for this policy. It is considered that H2 misses opportunities to provide detailed guidance (for example design - including shop front and signage design; materials - traditional/non-traditional) in support of strategic guidance within existing and emerging local plans.</p> <p>If the policy remains the Council consider that the following revisions could help make the policy effective:</p> <ul style="list-style-type: none"> Criteria 'a' and 'b' revised into a single requirement as follows: 'sustaining and enhancing the historic and architectural qualities of buildings and streetscapes, by having regard to continuous frontages, street patterns, boundary treatments, floorscapes and roofscapes' to ensure regard is given to streetscapes as well as buildings. Criteria 'g' sets an inflexible policy requirement and should be revised as follows: 'having regard to important views and the setting of the Durham City Conservation Area from viewpoints within and outside the Conservation Area'. Criteria 'l' should be revised as follows: 'taking into consideration the impact of cumulative development' to ensure a less prescriptive and more flexible policy requirement.

<p>H3</p>	<p>The Council consider that this policy would be better located in the first section of the NP given that it would apply to the general environment and not solely to the historic environment.</p> <p>The Council consider that H3 would benefit from some revisions to ensure it is more succinct and more effective. It could therefore read as follows:</p> <p><i>'Development proposals outside the Conservation Areas should, where relevant ensure they:</i></p> <ul style="list-style-type: none"> <i>a) sustain and enhance the character and distinctiveness of the area; and</i> <i>b) avoid the loss of open space and public realm that contributes to the character and appearance of the surrounding area; and</i> <i>c) use high quality design which contributes to the quality and character of the area; and</i> <i>d) have scale, density, massing, form, layout, landscaping, materials and finishes, and, open spaces appropriate to the context of the area.'</i>
<p>H4</p>	<p>The Council continue to have concerns with regards to the scope of this policy, which may create uncertainty in the decision-making process by setting down a slightly different approach to national policy requirements. It also fails to fully align with the strategic policy set down in the emerging County Durham Plan.</p> <p>If the policy remains the Council consider that the following revisions could help make the policy effective:</p> <p><i>'Development proposals affecting heritage assets should demonstrate an understanding of the significance of the asset and give details of how the development proposal will impact on the asset and, where relevant, its setting.</i></p> <p><i>Development proposals affecting heritage assets will be encouraged and supported where they conserve, enhance and return assets to active use, including those that have been identified as being at risk or under threat.</i></p> <p><i>Any harm to designated assets should require clear and convincing justification. Substantial harm to, or loss of, a designated heritage asset should be avoided, except in the circumstances outlined in national policy. Less than substantial harm to, or total loss of significance of, a designated heritage asset should be refused consent unless it can be demonstrated that the harm or loss is necessary to achieve substantial public benefits (that outweigh the harm or loss), or, the circumstances outlined in current national policy apply.</i></p>

	<p><i>The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.</i></p> <p><i>In respect of non-designated heritage assets of archaeological interest, the significance of the asset should inform whether it is given the same protection as a designated asset in accordance with national guidance. Where the significance of the asset is deemed to be less than that of a designated asset the options would be either preservation in situ or a programme of excavation, recording, analysis and reporting.'</i></p>
Theme 2b	
Theme 2b General	Map 5 (p.73) is not accurate as it omits a number of buildings and areas that are covered by Green Belt. This map should be consistent with the County Durham Plan Policies Map.
G1	<p>The Council consider that Policy G1 would benefit from restructuring as it might be regarded as confusing given that it is pulling together a lot of elements, particularly under the heading of 'green assets'.</p> <p>Green Infrastructure (GI) is such a wide-ranging subject with many subsets, it may be that it could be split into several policies to make it easier to decipher. The policy works such in that it aims to protect 'green assets' and the footpath network/ecological corridors that link them and that is essentially green infrastructure. The Council do however have concerns over how easy the policy is to interpret and therefore implement. A minor observation within the 'Protecting and enhancing footpaths...' section would be that the policy requirements should be split into criteria (a, b, c) as they are all separate considerations.</p> <p>The policy deals with impacts on biodiversity and does ask for compensatory works, however it is doubtful that this aligns with the net gain principle held within paragraph 170 (d) of the NPPF; does the policy therefore need to refine what it says about different typologies of GI?</p> <p>It is noted that there are no longer any thresholds for the policy and it is not clear whether the policy relies upon those in the County Durham Plan, or, if it applies to all development. The policy should therefore clarify when it would be triggered, as whilst the development types are referred to in paragraph 4.90 the scale of development is not.</p> <p>It is noted that within criterion 'd' the word 'routes' is superfluous and should be deleted.</p> <p>The second paragraph under the 'Protecting and enhancing the banks of the River Wear' section is considered to be an awkwardly worded sentence and may benefit from revision. As written, it is unclear who should investigate and when.</p>

	It is also noted that references at the top of the policy to 'paragraph 4.65 and 4.66' should instead refer to '4.70 and 4.71'.
G2	<p>The Council remain concerned about the inclusion of specific sites within this policy, particularly in relation to the DLI grounds and Neville's Cross Battlefield (which are already in the Green Belt). It is unclear as to why additional protection is required for these sites and what that protection is, as the policy tests seem to be the same as for Green Belt sites.</p> <p>It also remains the case that the 'characteristics that make these sites important and special to local people' have not been sufficiently defined or evidenced enough to apply the policy in decision making.</p>
G2.6 (p.63)	This section refers to 'Areas of High Landscape Value', however this should be revised to 'Areas of Higher Landscape Value' to align with the County Durham Plan. Furthermore, as highlighted in the text there are already a number of designations covering these woodlands, and it is therefore queried whether a further designation is required.
G4	<p>Policy G4 has two parts however the criteria and intent seem to be the same for both so there appears to be an opportunity to simplify this policy.</p> <p>The Council also have reservations that this policy does not fully align with the 'beneficial uses' of green belt as set down in NPPF. Therefore, the Policy appears to have missed an opportunity to identify some specific proposals appropriate to those areas and does not offer any further policy direction and guidance to the reader than the existing policy context.</p>
Theme 3	
E1	<p>This policy conflicts with a strategic allocation within the emerging CDP at Aykley Heads, which forms a larger site. It is the Council's view that this extends beyond the scope of a neighbourhood plan and is not justified.</p> <p>The Council also consider that the need to cross refer the policy to S2 is confusing, and it would be more helpful for the reader if the policy set out the requirements for the site's development.</p> <p>It is noted that Paragraph 4.139 is no longer relevant and should be deleted. Reference to Durham Science Park under Paragraph 4.14 is no longer relevant given that the neighbourhood plan no longer designates the site.</p>
E2	<p>This policy is unclear in its scope and intent. It reads like an allocations policy and it is unclear whether the plan seeks to allocate Fowlers Yard for development, to resist demolition or protect existing uses and encourage specific uses. There is no reference to use classes within the Policy. This particular policy may be better incorporated with the city centre policy given its location.</p> <p>The Council understand that there are unresolved issues regarding the Blagdon Depot site, posing a question over whether it is appropriate to include this within the list of specific sites and for the uses cited in Paragraph 4.144 and Map 5. The reference should be deleted as the site is no longer an allocation in the neighbourhood plan.</p>

E3	<p>The Council have concerns as to the need for this policy as it largely repeats the County Durham Plan without providing any additional detail to assist in decision making. It also has the potential to create confusion.</p> <p>The Council also question the terminology in the policy. For example reference to Durham City Centre 'core retail area' is confusing and it is suggested that this be amended to Durham city centre. This is further confused with inconsistent referencing within the policy - this should also be amended on Map 6.</p> <p>It is considered that the requirements for the Primary Frontage as detailed in criteria 'a' to 'e' are confusing. Criteria 'b' and 'd' appear to repeat each other, while the requirements to retain retail (A1) as the predominant use is considered unrealistic and not justified by evidence.</p> <p>Criterion 'c' should quote specific categories of uses from the Use Classes Order (UCO) for the avoidance of any doubt in case of any future changes to the UCO and to ensure it is not too open ended.</p> <p>It is considered that criterion 'e' is unnecessary.</p>
E4	The Council have concerns as to the need for this policy as it deals with an issue that is addressed in the County Durham Plan, without providing any additional detail to assist decision making.
E5	<p>In relation to Policy E5 the Council observe that the first paragraph repeats the World Heritage Site policy issue addressed elsewhere.</p> <p>It is also considered that criterion 'e' could refer to 'positive' rather than 'significant' contribution to ensure a more flexible policy framework for new visitor attractions.</p>
E6	<p>The Council have concerns in relation to the first sentence in E6 as the policy could not be applied to accommodation which already exists.</p> <p>Furthermore, the Council are not convinced that criterion 'c' is necessary given that the uses would fall outside a residential use class anyway and a change would be a material change of use in its own right.</p>
Theme 4	
D1	The Council would question whether all three sites need to be allocated. Whilst it is accepted that planning permission has lapsed for the Main Street site, John Street and The Avenue have valid approvals (subject to S106 in the case of The Avenue).

	<p>Sites D1.4-D1.7 would in some cases conflict with policy objectives elsewhere in the neighbourhood plan. It is noted that some but not all of the site's constraints are listed in the descriptions, for example D1.5 does not make clear that the existing substation would need to be relocated.</p>
<p>D2</p>	<p>The Council consider that this policy should be deleted. Paragraph 20 of NPPF notes 'Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for: a) housing (including affordable housing), employment, retail, leisure and other commercial development;'</p> <p>Furthermore, Planning Practice Guidance (PPG) Housing needs of different groups (Paragraph: 004 Reference ID: 67-004-20190722) sets out:</p> <p><i>'How can student housing needs be assessed?'</i></p> <p><i>Strategic policy-making authorities need to plan for sufficient student accommodation whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus. Encouraging more dedicated student accommodation may provide low cost housing that takes pressure off the private rented sector and increases the overall housing stock. Strategic policy-making authorities are encouraged to consider options which would support both the needs of the student population as well as local residents before imposing caps or restrictions on students living outside university-provided accommodation. Local Planning Authorities will also need to engage with universities and other higher educational establishments to ensure they understand their student accommodation requirements in their area.'</i></p> <p>In this context it is clear that both NPPF and PPG direct that student accommodation as a policy area should be addressed by strategic policy making authorities and in a local plan rather than in a neighbourhood plan.</p> <p>There is concern therefore that Policy D2 is seeking to address a strategic matter. The council noted its intention to address the issue of PBSA in the Issues and Options Document (question 25) and prepared Preferred Options Stage and Pre-Submission Draft stage policies on PBSA, where the policy was specifically identified as a strategic policy. It is also noted that this policy area has been subject to discussion at the County Durham Plan Examination in Public.</p> <p>In addition, this matter is already the subject of an interim policy which covers the whole of the county, including other parts of the city which are associated with student accommodation but, that fall beyond the designated neighbourhood area.</p> <p>The consequence of Policy D2 would be a policy which falls beyond the scope of a neighbourhood plan and which conflicts in approach with the County Durham Plan's emerging approach on this strategic matter. This would lead to confusion for applicants and uncertainties in decision taking. In addition, the student population of County Durham is not</p>

confined to the Neighbourhood Plan area. This means that were the neighbourhood plan to introduce policy D2 there would be an inconsistency in approach to this strategic matter between the Neighbourhood Plan area and its immediate surrounds.

The policy mostly seems to be based upon a mixture of the Interim Policy and the approach set down in the emerging County Durham Plan. However, the following aspects are of concern:

- The allocations largely reflect the output of the Council's call for sites, although they do not entirely replicate the content in the County Durham Plan Submission draft (this would pose a conflict in decision taking with inconsistent requirements for allocations). The allocations in the County Durham Plan are evidence based, therefore the inconsistent elements in the draft neighbourhood plan would be contrary to the council's evidence, with seemingly no alternative evidence offered to justify the additional requirements.
- In this context, the requirements for PBSA4 Elvett Hill Car Park differs from the County Durham Plan Submission version. In particular it is noted that, as a requirement, the Neighbourhood Plan stipulates that development should be confined to the existing developed areas of the site, however the site is undeveloped. It is considered that the requirements for PBSA3 have perhaps been replicated in PBSA4 in error.
- The requirements for PBSA5 in Policy D2 differs from the County Durham Plan Submission version by noting that 'development will continue the existing built form of the development on the site'. This text was contained within the Preferred Options stage County Durham Plan and has been replicated in Policy D2. However, the requirements for the PBSA allocations were updated between the Preferred Options stage County Durham Plan and Pre Submission stage County Durham Plan following the production of Durham Council's PBSA Heritage Impact Assessments. The Heritage Impact Assessments have informed the requirements in the County Durham Plan Submission Draft. The requirement that 'development will continue the existing built form of the development on the site' is not proposed in the emerging County Durham Plan. This additional requirement in the neighbourhood plan would potentially cause confusion between the two Plans in decision taking.
- The requirements for PBSA6 Mill Hill Lane do not reflect the Submission draft County Durham Plan. Between Preferred Options Stage and the Pre Submission Stage County Durham Plan PBSA6 was amended to remove the St Aiden's College from the application. However, the Neighbourhood plan requirements for PBSA6 do not reflect this change and refer to the Preferred Options County Durham Plan PBSA6 requirements. As noted, the requirements in the Submission stage County Durham Plan are informed by the Heritage Impact Assessment. There is no evidence put forward by the Neighbourhood Plan to set out alternative requirements. The difference between the policy requirements would cause confusion and uncertainty in decision taking.
- All of the requirements for each site in the County Durham Plan are prefixed with 'Development of the site will:'. In copying elements of the policy into the neighbourhood Plan Policy D2 this text has been omitted, and, the specific requirements in Policy D2 therefore lack this context.
- Policy D2 criteria 'a' to 'e' would apply to PBSA 'other than within the University Estate', however, in practice, the Neighbourhood Plan doesn't define the 'University Estate'. This therefore would lead to a lack of certainty in

decision making for applicants and planning officers alike. Both the University and private sector providers can bring forward PBSA. However, as drafted the policy introduces additional policy tests for PBSA proposals brought forward on land outside of the Universities ownership. This is unequitable, could stifle competition and potentially limit the supply of accommodation to meet needs. In practice, should the university purchase a site, that land would become part of the 'University Estate'. There is therefore a potential scenario in which a proposal for PBSA would be unsuitable in terms of the Policy D2 criteria 'd' and 'e', however should the University then purchase the same site (becoming part of their estate) the same proposal may be acceptable. Land ownership should not influence the suitability of a proposal.

- Criterion 'c' is based upon a criterion in the County Durham Plan Submission draft. For ease of reference the corresponding criterion in the County Durham Plan is: 'it would not result in a significant negative impact on retail, employment, leisure, tourism, housing or the council's regeneration objectives'. However, in the Policy D2, this has been split and reconfigured into two criteria ('c' and 'd'). Criterion 'c' in the Neighbourhood Plan changes the emphasis of the County Durham Plan, while criterion 'd' of the Neighbourhood Plan requires all proposals for PBSA, extension to PBSA or change of use to PBSA (other than those on the University's Estate) to demonstrate they support the council's regeneration objectives. The difference between the approach in the County Durham Plan and the Neighbourhood Plan would likely cause confusion in decision taking. Furthermore, in line with County Durham Plan criterion 'c', if a particular site was identified as part of a council regeneration proposal then this criterion would be relevant. However, the Neighbourhood Plan criterion 'd' requires all proposals linked to PBSA to demonstrate they actively support the council's regeneration objectives. In practice, this may be difficult to demonstrate that a proposal supports regeneration objectives, even if it has a neutral or no negative impact upon broader regeneration objectives. It is also an unjustified and unnecessary general requirement for this type of proposal. There is concern that Criterion 'd' of the Neighbourhood Plan would be in effect almost impossible to meet, therefore resulting in a refusal of applications which were suitable in all other respects. Furthermore, given this only applies to proposals not on the University's estate this would limit competition and therefore choice within the PBSA market (as mentioned above).
- Policy D2 contains a 10% threshold test relating to PBSA, which would have the (likely unintended) consequence of limiting otherwise appropriate campus-based development. In campus locations, the absence of non-student residences would mean that the proportion of student accommodation would be high and most likely to be higher than 10%. Whilst wider concerns relating to the 'University Estate' element of the policy are set out elsewhere in this response, it is possible that a parcel of land not in the University's ownership (therefore outside of the Estate) but in close proximity to an existing campus and acceptable in all other respects would be ruled out by this criterion. Furthermore, there is no evidence for the application of the 10% tipping point in respect of PBSA. Policy D2 has been adapted from the County Durham Plan Submission in which the 10% tipping point is a consideration in respect of Houses in Multiple Occupation (HMO) and supporting inclusive mixed and balanced communities. The 10% concentration 'tipping point' as referred to in the County Durham Plan Submission draft has been derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification

	<p>Problems and Solutions', which was published in 2008. This evidence base related to HMOs and not PBSA, therefore there is no evidence underpinning the 10% tipping point in respect of PBSA as proposed in Policy D2.</p> <ul style="list-style-type: none">● Policy D2 requires that 25% of the total units of PBSA should normally be required to meet the prevailing definition of affordable. There is not an equivalent requirement for affordable homes in PBSA in the County Durham Plan Submission draft. Whilst the County Durham Plan identifies a 25% requirement for affordable housing on general needs housing sites, this is based on an assessment of viability which has included testing a series of notional sites. This testing involved understanding the impact of affordable homes on housing sites. However, the evidence did not consider affordable housing as part of PBSA. For this reason, there is no evidence to support the 25% threshold in Policy D2 in terms of viability. Furthermore, whilst a need for affordable housing has been identified through the County Durham Strategic Housing Market Assessment (SHMA 2019), there is no evidence to specifically require affordable student accommodation. Student accommodation is designed to meet the housing needs of students, it is not thought to necessarily be compatible with affordable housing as defined by the NPPF Annex 2 Glossary, which would typically relate to non-student households. The student housing market is diverse with different products at different prices to suit the needs of students. There also can be an option for students to live at home to reduce housing costs. In practice, the requirement in Policy D2 for 25% affordable housing in PBSA would mean that a quarter of any Purpose Built Student Accommodation (including that brought forward by the University) would be identified as affordable housing and likely restricted for non-students. This reserved portion of the stock would be unlikely to meet the needs of students or affordable needs in the County.● Whilst the supporting text of the Submission Draft County Durham Plan notes that it would be prudent for the design of PBSA to build in flexibility to ensure it could appeal to other users, for instance noting that outdoor areas designated for student amenity space could be re purposed for car parking should it be required in line with a future use on the site, the requirement for this in Policy D2 differs from the County Durham Plan. This would cause inconsistency in decision taking. To note, paragraph 4.191 seems to seek to justify the inclusion of D2 and D3 on the basis that student accommodation is one of the most frequently mentioned issues in the Plan's consultation. It is worth noting that this is also an area which generates comments from consultees as part of the consultation on the County Durham Plan and that the Plan has developed a policy to consider the issues raised. In this context, the issue of student accommodation was highlighted as an issue in the Issues and Options stage County Durham Plan.● Paragraph 4.191 also sets out the purpose of the policy is to 'make minor but vital further improvements' to the emerging County Durham Plan policy. It is not the role of the neighbourhood plan to seek to make improvements to emerging local plan policies. Furthermore, the Parish Council have submitted representations to the Policy and have made submissions and appeared at the examination of the County Durham Plan. This provided an opportunity for the local plan Inspector to consider the Parish Council's proposed amendments to the policy approach.● Paragraph 4.191 notes that Policies D2 and D3 'enable the number of student accommodation units within a PBSA to be counted towards the threshold rather than the whole PBSA being counted as one property'.
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	<p>However, it is not the case that PBSA is counted as one property. At present, those students living in PBSA can apply for a Class N exemption. These Class N exemptions within PBSA display as multiple records which reflect the facility. They display either as self-contained units, flats or clusters.</p>
<p>D3</p>	<p>The Council consider that this policy should be deleted. This policy is noted as a 'strategic policy' in the Preferred options and Pre-Submission Draft stage County Durham Plan. It was also subject to a question in the Issues and Options Document. The Council therefore have the same overarching concerns as for Policy D2.</p> <p>Paragraph 20 of NPPF notes:</p> <p><i>'Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for: a) housing (including affordable housing), employment, retail, leisure and other commercial development;'</i></p> <p>Furthermore, Planning Practice Guidance (PPG) <i>Housing needs of different groups</i> (Paragraph: 004 Reference ID: 67-004-20190722) sets out:</p> <p><i>'How can student housing needs be assessed?'</i></p> <p><i><u>Strategic policy-making authorities need to plan for sufficient student accommodation whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus. Encouraging more dedicated student accommodation may provide low cost housing that takes pressure off the private rented sector and increases the overall housing stock. Strategic policy-making authorities are encouraged to consider options which would support both the needs of the student population as well as local residents before imposing caps or restrictions on students living outside university-provided accommodation. Local Planning Authorities will also need to engage with universities and other higher educational establishments to ensure they understand their student accommodation requirements in their area.'</u></i> (Emphasis added)</p> <p>In this context it is clear that both NPPF and PPG direct that student accommodation as a policy area should be addressed by strategic policy making authorities and in a local plan rather than in a neighbourhood plan.</p> <p>Notwithstanding these concerns, the Council note the following inconsistencies:</p> <ul style="list-style-type: none"> • The policy differs from the current interim policy and proposed approach as set out in the emerging County Durham Plan in that it omits an 'exception clause'. There may be circumstances where an exception to the 10% is justified. This would include for instance, a town centre location where the proportion of HMOs is high and in excess of 10% based on the absence of other residential properties. This factor amongst others, is considered and included in the County Durham Plan Submission draft policy.

	<ul style="list-style-type: none"> • It is noted that paragraph 4.193 of the Neighbourhood plan does however seem to enable an exception to the 10% threshold. Paragraph 4.193 sets out: <i>‘...it is recognised that individual cases of personal circumstances will be additional consideration in deciding on particular cases. Such considerations are best made on the merits of an individual application rather than setting a ‘tipping point’ allowing more HMOs if an area has more than say 50% HMO properties already.’</i> Therefore, whilst Policy D3 makes no provision for an exception to the 10%, the supporting text at paragraph 4.193 notes such exceptions are permitted, but does not include any policy framework or information on what would be an appropriate exception outside of <i>‘personal circumstances’</i>. This approach would likely cause confusion and potential inconsistencies in decision taking. Furthermore, it is noted that paragraph 4.193 sets out: <i>‘... A policy that permits this would be directly contrary to NPPF (paragraph 62) which expects planning policies to aim to create mixed and balanced communities’</i>. In the context of Policy D2, which does not allow for an exception, this supporting text causes further uncertainty. In addition, it is not thought to be the role of a neighbourhood plan to provide an interpretation of NPPF and to seek to direct policy development. • Policy D3 notes that <i>‘Changes of use from an HMO to C3 will be supported. Opportunities to enable this will be explored as they arise in order to assist the re-balancing of neighbourhoods’</i>. To note, a change of use from a smaller HMO (C4) to a C3 use would constitute permitted development.
<p>D4</p>	<p>The 10% element of this policy is intended to replicate the County Durham Plan emerging approach. However, it differs in its content. Given there is no need to specifically replicate elements of an emerging local plan and that the differences between the two policies will likely cause confusion in decision taking then it is proposed that the 10% element of policy D4 and the list of accommodation types that would meet this requirement is deleted.</p> <p>The lack of understanding behind the specific justification for accommodation for younger people with disabilities and the lack of a definition as to how this group is defined, would also cause confusion in decision taking</p> <p>As currently worded Policy D4 could be considered as a strategic policy <i>as it seeks to ‘make sufficient provision for: a) housing (including affordable housing)’</i> (paragraph 20 NPPF).</p> <p>To note, the ‘Housing for older people’ element of this policy replicates the Preferred Options stage County Durham Plan, in respect of the first paragraph and the bullet point list of products that could meet the 10% requirement. However, the policy has since evolved in the Pre Submission version of the County Durham Plan and has been subject to discussion at proposed main modifications by the council as part of the County Durham Plan examination. Therefore, Policy D4 differs from the emerging policy approach of the County Durham Plan. This includes the number of properties at which the 10% requirement would be required and the products that would be included within the 10% requirement. This inconsistency would likely cause confusion in decision taking.</p>

	<p>The Council also note that it is not clear why there is a sub-section specific to younger people with disabilities. This needs to be evidenced. There is also no definition of what is meant by younger people which requires explanation.</p> <p>Paragraph 4.184 states that nursing homes and residential care are covered in Policy C4, but sheltered housing and extra-care would seem to be covered by this policy. There appears to be some potential for some overlap here.</p>
<p>D5</p>	<p>This policy should be deleted, or limited in content to the first paragraph relating to the 25% requirement to reflect the County Durham Plan Submission Draft. This element of the policy would need to be amended to reflect NPPF and note that 'on sites of 10 units or more'</p> <p>As currently worded Policy D5 could be considered as a strategic policy as it seeks to 'make sufficient provision for: a) housing (including affordable housing)' (paragraph 20 NPPF).</p> <p>Policy D5 reflects the 25% requirement for affordable housing as set out in the emerging County Durham Plan, with the exception that modifications were proposed to the County Durham Plan through the Examination process to ensure that the policy reflects NPPF and that affordable housing is sought for site of 10 units or more (as opposed to more than 10 in policy D5).</p> <p>The emerging County Durham Plan sets out criteria for offsite provision of affordable housing. Policy D5 of the neighbourhood plan may cause confusion in decision taking by introducing a requirement that if not provided on site, affordable housing should be located 'within adjacent to or nearby Our Neighbourhood'. The council's Strategic Housing Market Assessment (2019) has determined that County Durham is a single Housing Market Area. There is no evidenced basis for restricting offsite affordable housing to the Neighbourhood Area. It is considered that the requirement to be 'nearby' is not sufficiently precise.</p> <p>Policy D5 is also unclear in the case of an offsite contribution; i.e. whether an applicant should deliver affordable homes on an alternative site or whether a financial contribution should be provided in lieu of an onsite or offsite delivery of affordable homes. In practice, there may not be opportunities for an applicant to directly deliver affordable housing on an alternative site or for affordable homes to be delivered via contribution in line with Policy D5, in particular ensuring that a site is within, adjacent to, or nearby the Neighbourhood Plan area. In such circumstances there is a risk that if there are no suitable sites available to deliver affordable homes then the contribution could be lost. This would mean that the opportunity to deliver affordable homes to meet the identified need within the County Durham Housing Market Area would be lost.</p>

	<p>Paragraph 4.208 of the supporting text sets out that ‘realistically affordable housing’ should be delivered. This is not clearly defined. It is considered that any definition of affordable housing should be in line with the definition in Annex 2 of NPPF.</p> <p>Paragraph 4.208 asserts that Durham Council own property within the neighbourhood plan area, which could be developed for realistically affordable housing. Whilst it is unclear which sites are referred to in the context of this policy, it is not the role of the neighbourhood plan to recommend the use of council assets.</p>
D6	<p>The Council have concerns in relation to the scope and need for this policy, given that it duplicates many elements within Policy H3 as well as straying into policy set within the County Durham Plan, which will create uncertainty for decision makers. Furthermore criterion ‘g’ is imprecise and appears to require existing buildings to improve their energy efficiency which would not align with Building Regulation requirements.</p> <p>The County Council have adopted a Building for Life Supplementary Planning Document which works in tandem with the County Durham Plan to set down the requirements for attainment in relation to BfL standards. As written, this requirement within Policy D6 will create uncertainty for decision makers.</p>
Theme 5	
Theme 5 General	<p>Within Theme 5 the Council suggest in relation to a new arts facility in the City Centre this should be conversant with policies encouraging non-car travel, so as avoid contradiction within the neighbourhood plan.</p>
T1	<p>While the Council appreciate the neighbourhood plans aspirations in relation to transport accessibility, transport assessments, statements and travel plans, these are strategic matters and the scope and need for neighbourhood plan policies on these matters is therefore questioned.</p> <p>Nevertheless, the Council welcome the emphasis on sustainable transport and discouraging car travel by removing through routes. However, this should not mean limiting permeability for pedestrians and cyclists.</p> <p>The policy and supporting text overlap with the emerging County Durham Plan. For example, Policy 22 of the County Durham Plan promotes well designed sustainable transport modes in new residential areas, with a clear hierarchy that favours walking and cycling.</p> <p>Criterion ‘a’ should recognise that it may not be possible to link with external foot and cycle networks if such routes are not already present.</p>

	<p>With respect to the supporting text, the Active Travel (Wales) guidance has not been adopted by the Council but is used as best practice guidance as part of auditing work on existing routes.</p> <p>In relation to offsite improvements (paragraph 4.245) it is considered that the issue of how s106 money is to be used is the role of a local authority.</p>
T2	<p>The Council observe that the references to the extension of the Controlled Parking Zone (captured under Policy T2) need to reflect that this is entirely a matter for the Council.</p> <p>In respect of criterion 'c', the Council is concerned that development cannot provide in-curtilage parking outside the curtilage of an individual house by definition and that reference should be deleted to ensure that the criterion can be implemented and be effective.</p> <p>The Council also note that criterion 'f' would result in development providing less than the minimum required car parking and therefore it is considered that (f) should be deleted</p>
T3	<p>The County Durham Plan will require 25% of specialist housing for older people to meet building regulations category M4 (3) through Policy 15. The M4 (3) standard requires space for storage and charging of mobility aids, and transfer between them (e.g. indoor to outdoor wheelchair). The intent of this policy is supported, however the need for all homes to provide such storage is questioned. The supporting text should include more detail on the need for this requirement, or it should be removed from the policy.</p> <p>The council support the proposal to require secure cycle storage to be provided as part of new residential developments.</p>
Theme 6	
C1	<p>The Council is concerned that the criteria under 'new facilities for arts and culture' are perhaps more restrictive than is intended by the Parish Council (particularly criteria 'a', 'b' and 'f'). Furthermore, it is not clear how a proposal would be expected to demonstrate a community need (which is contrary to NPPF guidance or town centre uses) or whether it would harm the viability of an existing facility?</p>
C2	<p>The Council note that criterion 'b' is perhaps overly prescriptive and may not be possible in all cases.</p>
C3	<p>Whilst the intent of this policy is supported, in order to apply it there would need to be a definition of 'locality' in order that the reader knows the geographical area of search. Such facilities could be located outside the neighbourhood area which would otherwise suffice, for example. Without such clarity it would be difficult to implement the policy. The supporting text should provide guidance on how to undertake the tests associated with criteria 'a' and 'b'. Furthermore, the NPPF refers to 'valued' facilities and the policy should be aligned with this.</p>

