

# Appendix A

## Summary of County Council Representations

National policy and guidance clearly sets out that neighbourhood planning provides the opportunity for communities to set out a positive vision for how they want their community to develop in the future in ways that meet identified local need and make sense for local people. A neighbourhood plan can be used to positively address the development and use of land and is a means to identify specific action or policies to deliver improvements. As such a neighbourhood plan can put in place planning policies that will help deliver that vision for the development they want to see. Whilst the council has sought to support the Forum to this end a number of concerns regarding the draft plan remain that the council firmly considers need to be addressed in order that the plan meets all of the 'Basic Conditions' prescribed by central government so that it can advance to independent examination. These are summarised below

### PROCEDURAL MATTERS

#### Whether the DCNP has been adequately informed by SA/SEA

Specialist officers have identified fundamental concerns about the way in which the group have undertaken the Sustainability Appraisal and Strategic Environmental Assessment that was required because of the environmental/ heritage sensitivities relating to the plan area. The county council is aware that this has delayed plan preparation and required the group to undertake a substantial amount of specialist work which has resulted in a wider Sustainability Appraisal (which incorporates SEA with wider social and economic considerations). Council officers supported the Forum in preparing the Framework against which the content of the emerging plan was to be assessed in order that any consequences could be identified and mitigated. However officers it is regrettable that despite requests by officers they have only had sight of the SA Report upon its publication for this consultation. Therefore they were not given the opportunity to advise the group on the practical application of the framework.

As the need for SEA was clarified part way through the drafting of this plan the working group were clearly advised by officers that the SA assessment would need to be robust, thorough and conducted in an objective, impartial manner, rather than attempting to retro fitting it to reflect the plan's content. Overall, the county council is of the opinion that the Durham City Neighbourhood Plan SA Report does not meet several of the necessary key legal minimum requirements. These are summarised below:

- The likely significant effects of the DCNP on the environment are not sufficiently identified, described and evaluated. This is one of the primary functions of a SA Report. The impacts identified for the DCNP have a 'score' attributed to them (e.g. positive, neutral, negative), but there is no further detail with regards identified effects. As such, a clear understanding of potential effects of specific policies cannot be fully-ascertained.

- There is a distinct lack of detail and justification for the scores provided in the supporting assessment tables. This means that an understanding of the likely significant effects of individual policies, and ultimately the Plan as a whole, cannot be gained from the assessments.
- It is not clear as to whether appropriate impact prediction methods been used and have assessments been rigorous and objective. This concern is supported by the fact that all identified impacts were identified as either very positive, positive or neutral and consequently “*none of the draft policies are considered to have a negative impact*”. Such a conclusion raises questions about the impartiality of assessments and whether social, economic and environmental impacts as well as their links to the SA objectives have been fully-considered.
- Given the approach taken, the likely significant effects of the DCNP and ‘cumulative effects’ have not been identified. Although Chapter 4 of the SA Report details the ‘*fine-tuning*’ process as a result of the SA, it is considered that this is not comprehensive enough.
- The DCNP SA Report does not adequately identify, assess and justify reasonable alternatives to the preferred options proposed in the Plan. Despite the SA Report seeks to fulfil this requirement and providing commentary on options at various points, it is considered that the necessary detailed justification for the options appraisal and its methodology is absent from this SA Report.
- Mitigation measures or residual effects have not been addressed as no adverse impacts were identified as a result of assessment of preferred option policies and allocations; and
- The minimum requirement of providing a Non-Technical Summary has not been met.

Further detail regarding the above concerns is set out in **Appendix B**.

As a consequence of the above the plan fails to meet the Basic Condition relevant to this matter. The county council urges in the strongest of terms that this matter is resolved having regard to the content of Appendix B. Failure to do so prior to the formal submission of the plan to the county council in due course (Submission Stage) will result in the county council having no option but to decline to advance the plan to independent examination.

### **Effectiveness of pre consultation engagement**

The county council is aware that the Forum is the accountable body for the preparation of the DCNP however it has delegated preparation of the plan to a smaller working group. The Forum constitution was approved by the county council on the basis that it was a representative group of individuals and bodies which were relevant to the residential and commercial nature of the neighbourhood plan area. Despite council officers lending support and guidance to the group in a manner which would steer them to a robust credible and effective plan, the county council is of the opinion that

the working group has not embraced much of the advice given relating to the council's representations to this consultation. For example the council is aware that despite being addressed to the wider Forum members not all were privy to the county council's health check findings. Rather, these were only considered by the working group, who represent only part of the Forum.

It is also evident the county council's assets team alongside the University and Durham Business Improvement District (BiD), who are all significant stakeholders with differing interests and requirements, have not been adequately engaged in the preparation of the draft plan. This raises question marks over the delivery of parts of the plan. For example the DCNP proposes a number of land use allocations and restrictive Local Green Space designations and it has done so without prior engagement with land owners, including the council. As such the proposals may conflict with the intent of land owners, affect land values and/or result in the identification of sites that have no prospect of being delivered.

Furthermore, it seeks to allocate land for purposes other than what it already has planning permission, and in some cases where schemes are now under construction which again conveys a negative tone about certain types of development which were previously deemed suitable by the local planning authority in the context of the existing local and national policy framework. Finally the county council is unconvinced that the Delivery Plan associated with the DCNP has been prepared through proper engagement with stakeholders (including itself) or any appropriate understanding of the implications involved in terms of practicalities and resources in delivering projects listed.

It is considered that this failure to fully engage has contributed to the imbalance and deficiencies which are evident in the overall policy approach of the plan and form much of the county councils concerns regarding the draft plan.

In light of the above the county council is concerned that the plan is deficient in this respect in the context of the requirement to meet the relevant Basic Condition relating to this matter. It is firmly urged that this situation is remedied as the plan prior to the plan advancing to Submission stage.

### **Scope of the DCNP**

DCLG have, through the Planning Practice Guidance (Paragraph: 004 Reference ID: 41-004-20170728), made it clear that a neighbourhood plan should support the strategic development needs set out in the Local Plan and plan positively to support local development

The county council accepts that a neighbourhood plan differs from a local plan in that it does not have to cover all planning matters, only those which are considered by communities to require further detail, emphasis and/ or clarity. This may be done through the development of generic or topic specific policies, land use allocations and other site specific proposals.

However, the county council is mindful that it is not the role of a neighbourhood plan to deal with strategic matters or to advocate policy approaches or proposals which conflict with the current local plan (in this case the City of Durham Local Plan (CDLP))

and policy approaches set out in the more recent National Planning Policy Framework (NPPF).

The current draft of the DCNP contains a suite of planning policies which fall into one of the following types:

- Land use zoning (i.e. Employment land (strategic and non- strategic sites) and non-strategic housing land use allocations)
- Designation of Local Green Spaces (which have the same implication on development as Green Belt)
- Redefining adopted boundaries, in this case those of city the centre boundary and retail frontages which control where retail and other town centre uses can be located
- Specific topic based policies (e.g. student accommodation, town centre uses tourism and community facilities)
- Generic policies which set out specific criteria that a development must accord with (e.g. Heritage, Green Belt, design and accessibility).

This represents an extremely comprehensive document which seeks to cover the vast majority of planning topics expected a Local Plan. This in itself is not an issue to object to. However, in doing so the draft plan the county council is conscious that the plan strays into a number of strategic planning matters which are already adequately covered by the local policy framework and/ or National Planning Policy Framework (NPPF).

The PPG (Paragraph: 076 Reference ID: 41-076-20140306) recognises that strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic

In terms of this plan the county council firmly considers that these strategic aspects centre on inclusion of policies which:

- Allocate 'strategic' employment sites at Aykley Heads and at Mount Joy.
- Provide an alternative approach to the council's interim policy regarding student accommodation

- Alter the boundary of the City Centre as defined in the current City of Durham Local Plan
- Significantly alter the boundary of the primary and secondary retail frontages within the city centre as defined in the CDLP and in the absence of any robust evidence
- Reduce the level of affordable housing to be sought below that justified by the council's evidence and which will vary from the remainder of the area covered by the CDLP.
- Introduce heritage policies which have differing, often higher tests than that required by NPPF and the existing City of Durham Local Plan and in the absence of evidence to justify this.
- Cover control of development which impacts upon the World Heritage Site which does not align with existing national policy on this matter.
- Cover control of development in the designated Green Belt.

The PPG clearly states that a draft neighbourhood plan must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition relating to this matter. Although a draft neighbourhood plan is not tested against the policies in an emerging Local Plan the PPG recognises that the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested for example when considering the plans contribution to the achievement of sustainable development.

The relationship of the draft plan to strategic policies is a significant area of concern for the council. The resulting repetition in covering these strategic matters not only conflicts with the existing planning policy framework to differing degrees but does so in the absence of clear and evidenced justification or mitigation for the adverse implications that could result. Furthermore, it is regretful that in concentrating on these higher level issues the detail and local distinctiveness that the opportunities that a finer grain neighbourhood plan policy can bring to strategic Local Plan policy has not been seized by the Forum. The heritage policies exemplify this point.

The PPG is clear that where such as in this case a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the Forum and the county council should discuss and aim to agree the relationship between policies in:

- the emerging neighbourhood plan
- the emerging Local Plan
- the adopted development plan with appropriate regard to national policy and guidance.

The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination.

With this in mind the county council can evidence that throughout the plan preparation period council officers have provided 'support' to the Forum in the spirit of the advice set out in PPG. In doing so the county council has reiterated concerns over this basic

matter of principle, alongside a range of other matters which are set out later in this response. These concerns were clearly set out in two separate health checks that were undertaken by the county council and submitted to Forum over the course of the past year. However the majority of concerns, including those relating to scope of the plan has not been resolved and therefore the council has no alternative than to formally relay its concerns in the firmest of terms about the scope of the DCNP.

In light of the above the county council is concerned that the plan is deficient in this respect in the context of the requirement to meet the relevant Basic Condition relating to this matter. It is firmly urged that this situation is remedied as the plan prior to the plan advancing to Submission stage.

## **IMPLICATIONS OF DCNP FOR FUTURE DECISION TAKING**

### **Relationship with and implications on existing and emerging policy**

As set out earlier the PPG (Paragraph: 009 Reference ID: 41-009-20160211) makes it clear that a draft neighbourhood plan must be in general conformity with the strategic policies of the development plan in force. Also regard should be had to emerging policy. At present, the timescales for the preparation of the CDP lag somewhat behind that of the advancement of the DCNP. Therefore, the Basic Condition regarding conformity with strategic policies in the adopted Local Plan is likely to relate to an assessment of conformity with the current City of Durham Local Plan.

However the county council is also mindful that the PPG recognises that it is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan. This is because [section 38\(5\) of the Planning and Compulsory Purchase Act 2004](#) requires that the conflict must be resolved by the decision maker favoring the policy which is contained in the last document to become part of the development plan. Potential conflicts should be minimised to ensure that policies in the neighbourhood plan are not overridden by a new Local Plan. The county council does not consider that the plan accords with the spirit of PPG in this respect. Of extreme concern to the council is the emotive tone of some of the supporting text which accompanies these policies, particularly in respect to the student population and council activity. This is considered to be unnecessary and beyond the scope and spirit of a neighbourhood plan, particularly given it will sit alongside the council's development plan.

Bearing the above in mind, as some strategic policy approaches within the existing CDLP are non- negotiable in that they reflect NPPF content and basic planning principles, (e.g. heritage and Greenbelt), it is reasonable to presume that these would be taken forward in the forthcoming CDP. The county council is very concerned that acceptance of the DCNP with its current scope could result in a variance in approach having to being taken on these strategic matters depending upon whether a proposal fell within or beyond the neighbourhood area. This is not considered to be within the wider public interest.

The county council is concerned that there are aspects of the DCNP that merely repeat NPPF and/ or the CDLP. As such this unnecessary approach goes against the very principle of streamlining the planning policy framework and does not contribute

towards a suite of planning policies which dovetail with other local and national policies for the area. This has implications for the practical application of the plan to future planning proposals.

The council has identified several instances where the DCNP approach deviates from and conflicts with that of the council's existing and evidence relating to emerging plans and strategies. Examples of this include:

- a) **Approach to student accommodation:** in terms of including a 20% population threshold in Policy D3 and failure to include an exception clause that is set out in criteria e of the council's interim student accommodation policy. Furthermore Policy D3 includes an additional threshold relating to a 10% concentration of student exempt properties threshold and a 20% population threshold for purpose built student accommodation. These are not considered to be appropriate and this concern is additional to the fact that the county council considers this to be a strategic matter which should not form part of the scope of the DCNP.
- b) **Approach to affordable housing:** in terms of a 5% reduction in the level of provision to be sought (from 20% to 15%)
- c) **Approach to heritage matters:** in terms of the introduction of tests which exceed the bar set out in NPPF and the current CDLP.
- d) **Site allocations:** The extent of the redevelopment site of Aykley Heads
- e) **Approach to town centre uses:** which includes a proposal to redefine the primary and secondary frontages. The implication is that town centre uses other than retail will be unable to locate within a larger part of the City centre (including areas such as North Road and Milburngate which could benefit from a more diverse range of town centre uses).
- f) **Approach to transport strategy/ policy:** in terms of placing a number of unjustified requirements upon applicants which do not currently exist or represent an unjustified deviation from the council's current approach to transport matters
- g) **Approach to tourism:** which fails to adequately recognise the key challenges facing the visitor economy of Durham, and as such this is a missed opportunity for the DCNP to add value to the existing policy context for the area. Furthermore, the DCNP which advocates the provision of a visitor centre which is an approach which has proved unsuccessful in the past and conflicts with Visit Durham's existing approach.

In light of the above the county council is concerned that the plan is deficient in this respect in the context of the requirement to meet the relevant Basic Condition relating to this matter. It is firmly urged that this situation is remedied as the plan prior to the plan advancing to Submission stage.

Furthermore as a note of caution the council wishes to draw to the Forum's attention that there is a need for the Forum to check and keep under review all linkages with existing strategies and plans associated with the area to ensure alignment, particularly in respect to the proposed 'Emerald Network'. In respect to the setting up of a heritage, leisure & arts trail which relates to the DCNP's proposed 'Emerald Network' the plan does not reflect the fact that this is already in hand with the parks & Garden's Project Saints Trails, though the county council recognises that other trails could be considered. Another example is the fact that in the county council's view the DCNP does not sufficiently recognise the fact that the existing Destination Development Plan, a relevant strategy for the plan, is based upon the principles of sustainable visitor economy growth ('VERB' which balances the needs of the Visitor, Environment, and Residents & Businesses).

### **Clarity of policies**

The PPG (Paragraph: 041 Reference ID: 41-041-20140306) is clear that a policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Throughout the period during which the county council has offered 'support' to the Forum it has provided advice on the wording of policies and justification text. Despite this and the fact that the health checks have highlighted significant deficiencies with the phrasing of the vast majority of policies these concerns remain largely unresolved. Furthermore, whilst the council has no objection to many of the visions and objectives of the DCNP there are instances where the county council is unconvinced that the policies work towards meeting those objectives. This in part is a consequence of the wording of policies.

The county council is particularly concerned about the above as this plan will become a key policy document upon which planning decisions and investment decisions will be based. As such its content will impact upon the council as decision maker, asset holder and stakeholder in matters including regeneration and long term sustainability of the city. It will also impact upon the future decisions of existing and potential businesses and developers as well as residents. Therefore the county council strongly considers that it is critical that all policies, regardless of their approach are written in a clear manner which will not give rise to unintended negative consequences. Furthermore, the policies should not give rise to ambiguity. Such deficiencies that have been identified have the potential to impact upon effectiveness of the plan and make it the source of otherwise avoidable extensive debate at appeal.

The county council also considers that the plan supporting text would benefit from substantial refinement so that it is more concise and focuses on justifying the specific policy in question.

The number of concerns in this respect are significant and therefore a detailed account of these matters on a policy by policy basis is submitted as part of the council's formal response to this consultation as **Appendix C**.



## **Deliverability**

The PPG (Paragraph: 005 Reference ID: 41-005-20140306) makes it clear that if the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the plan should not place such a scale of obligations and policy burdens that their ability for development to occur is threatened. With this in mind the county council considers that both individually and collectively there are a number of policies proposed that place unreasonable, unequitable, conflicting, and unjustified and/ or inadequately evidenced constraints on future development proposals for the area. The overall approach in the document is considered by the council to be one of imbalanced, inflexible control which is divergent from the approach advocated within the current City of Durham Local Plan and NPPF. It is also at odds with the county council's wider emerging policy approach regarding the potential of the city in contribution the wider economic prosperity of the county.

The PPG clearly states that wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non -land use matters should be clearly identifiable. For example, set out in a companion document or annex. Whilst the Forum has sought to include projects falling into this category in a separate appendix the council is concerned that there are a number of references to these within the supporting text relating to the planning policies. This matter needs to be addressed in order that the plan accords with the PPG in relation to this matter.

In light of the above the county council is concerned that the plan is deficient in these respects in the context of the requirement to meet the relevant Basic Condition relating to this matter. It is firmly urged that this situation is remedied as the plan prior to the plan advancing to Submission stage.

## **Implications upon the future sustainability of the area**

As currently drafted, the DCNP conflicts with a number of policy areas as detailed above, notwithstanding the fact that it has been subject to a full Sustainability Appraisal (SA) incorporating SEA, the concerns about which are set out above. Ultimately the SA Report reads as a somewhat biased assessment which has not served to have the positive influence that it should have had on plan preparation.

The council is concerned that the plan, whilst setting out a number of objectives and aspirations within the supporting text in many instances the policies do not serve to fulfil some of these. Furthermore, the DCNP has missed an important opportunity to provide a suite of more focused policies that a locally specific to the neighbourhood area that would have provided greater depth and opportunity for a positive framework to help contribute to the continued sustainability of the area.

As a consequence in its current form the draft plan reads as an overly restrictive policy document which poses the prospect of future stagnation to the area, which includes the city centre, a significant valuable heritage and economic asset. For example its town centre policies and proposals fail to recognise the most up to date national policy approach of planning to enhance the visitor experience to beyond that of retail.

Furthermore, given deficiencies in the drafting of policies which include advocating an outdated approach to heritage matters and intent to set a higher bar than the existing adopted local and national policy on these important matters, it represents an unjustified challenge to and an upsetting of the existing balance that has been carefully struck between competing development and conservation requirements through the existing national and local policy context.

In light of the above the county council is concerned that the plan is deficient in this respect in the context of the requirement to meet the relevant Basic Condition relating to this matter. It is firmly urged that this situation is remedied as the plan prior to the plan advancing to Submission stage.

## **REPRESENTATIONS REGARDING COUNCIL ASSETS**

To date the DCNF have not formally discussed the inclusion of any county council owned sites with the Assets Team. This relates back to the concerns raised regarding the effectiveness of pre consultation engagement. As part of preparing this response the county council's assets team have now undertaken an interrogation of the council's land terrier in the context of the draft plans content. The following council owned sites have been identified as being specifically referenced:

- **The Aykley Heads site**

The proposed Aykley Heads allocation is shown on a map as a number of separate development parcels with all Green Belt land (including County Hall car park) excluded. The county council firmly considers that Aykley Heads is a 'strategic' employment site and therefore should not be included in the Neighbourhood Plan in any form as it is a matter for the Local Plan.

Notwithstanding this, the main concern to the county council is the exclusion of any Green Belt land from the Aykley Heads employment site identified in Policy E1, particularly in light of the fact that there has been no discussion with the council as landowner about this.

- **Fowlers Yard**

This site is allocated by DCNP Policy E2 (Other Employment Sites) for office and business enterprises (Use Class B1). The site is currently occupied and this policy deviates from the scope of uses that exist and would be permitted within it. There is no adequate justification provided for this allocation and the implications for it have not been sufficiently considered. From a policy perspective the plan serves to limit the types of uses that would be permitted within this City centre location which is contrary to the national policy approach. From a land owner perspective such restrictions are unjustified and could impact upon the future ability for the council to secure full occupancy of the units concerned.

- **Aykley Heads/ DLI**

This site is designated as a Local Green Space as part of the proposed 'Emerald Network'. In doing so this protected status would be the equivalent of Greenbelt.

However, the site is already afforded Greenbelt protection and therefore the proposal seems superfluous.

# Appendix B

## Concerns regarding the Sustainability Appraisal for the DCNP

In an email on 3<sup>rd</sup> August 2017, the county council confirmed it was satisfied that the SA Framework included within the draft SA Scoping Report had been revised to reflect the recommendations provided by the council and statutory consultees. Given the detailed discussions with Forum Members and feedback provided prior to this point, the county council is satisfied that there are no fundamental issues regarding the SEA Screening and SA Scoping stages that have been undertaken in terms of compliance with the SEA Directive (2001/42/EC).

However, notwithstanding the above this part of the county council’s response details matters arising subsequent to the consideration of the resulting supporting Sustainability Appraisal (SA) Report that has been prepared by the Forum. Although a draft copy of the Durham City Neighbourhood Plan was made available to the Council for a ‘health check’ (response provided on 22nd September 2017), the SA Report was not submitted for a similar check or informal comment. As such, this is the first opportunity the county council has had to review and make recommendations to the Forum regarding the SA Report.

To help structure this response and make it a useful ‘checklist’ for further work prior to submission, the county council has used the **minimum requirements of the SEA Directive** as broad themes. As is common practice and explained in its introduction, this SA Report combines the requirements of both SEA and SA legislation, but referred to SA only for brevity. It is the Council’s intention that this response will enable key points around procedural and compliance issues to be raised, which are fundamental to meeting condition (f) of the Basic Conditions Test. In terms of more detailed analysis of the content of the SA Report, the county council will defer to the expert advice from Historic England, Natural England and the Environment Agency.

Overall, the Council is of the opinion that the Durham City Neighbourhood Plan SA Report currently does not meet several of the necessary key legal requirements. The reasons for this are detailed in the tables below. In order to address these concerns, it is advised that further work is undertaken in accordance with the recommendation prior to Submission.

Table 1: Likely Significant Effects of the Plan	
<ul style="list-style-type: none"> <li>Have the likely significant effects on the environment been identified, described and evaluated?</li> </ul>	<ul style="list-style-type: none"> <li>SEA Directive Article 5 Annex I (f)</li> </ul>
<p><b>Comment:</b> One of the primary functions of the SEA Report is to identify, describe and evaluate the likely significant effects of the Plan in question on the environment. As the Forum took the decision to undertake an SA, impacts relating to social and economic factors should also be considered. It is the Council’s opinion that the Durham City Neighbourhood Plan (DCNP) SA Report does not sufficiently meet this minimum requirement for a number of key reasons.</p>	

Firstly, in order to distinguish between the broad range of potential impacts, there is a number of standard impact types which are commonly used and explained in the primary guidance document highlighted to the group, 'DIY SA' (Levett-Therivel, 2011). Likely significant effects can be categorised as very positive, positive, neutral, negative, very negative; short-, medium- and long-term; permanent or temporary; direct, indirect and cumulative. Individual impacts identified can be a combination of such 'types' of effects. The impacts identified for the DCNP have a 'score' attributed to them (e.g. positive), but there is no further detail with regards identified effects. As such, a clear understanding of potential effects of specific policies cannot be fully-ascertained.

Secondly, there is a distinct lack of detail and justification for the scores provided in the supporting assessment tables. This lack of detail is carried over into the summaries of the options assessments in chapter 3, where many just have a quantitative approach to effects. For instance, policy C6 (Health Care and Social Care Facilities) simply states "there is not a single negative impact, five of the sustainability objectives have an overall positive impact and two are very positive" (SA Report, p. 18). This means that an understanding of the likely significant effects of individual policies, and ultimately the Plan as a whole, cannot be gained as a result of the assessments.

This lack of detail provides the third reason for concern: have appropriate impact prediction methods been used and have assessments been rigorous and objective? This concern is supported by the fact that all identified impacts were identified as either very positive, positive or neutral (SA Report, p.5); and consequently "none of the draft policies are considered to have a negative impact" (SA Report, para 3.3). Such a conclusion raises questions about the impartiality of assessments and whether social, economic and environmental impacts as well as their links to the SA objectives have been fully-considered. For instance, the assessment of Policy H1 (Protection of the World Heritage Site) identifies neutral effects against SA objective 5 (SA Report, p. 42), but given this policy's stringent approach towards new development, there is potential for adverse effects if the delivery of affordable housing is restricted as a result.

With the approach detailed above, the Council believes the likely significant effects of the DCNP or 'cumulative effects' have not been identified. This provides the fourth reason for concern with regards this requirement. The guidance provided to Forum Members stresses the legal importance of doing so and provides detail on how to undertake this element of the assessment process (Levett-Therivel, 2011, Step 6, pp. 25-6). Also this guidance also explains how an understanding of the cumulative effects of the plan provides opportunities to fine tune the policy approach as it gives an important overview – e.g. do particular policies have a high proportion of negative effects or are some issues not fully addressed by the Plan given the number of neutral effects identified. Although Chapter 4 of the SA Report details the 'fine-tuning' process as a result of the SA, it is considered that this is not comprehensive enough due to the reasons noted above.

**Recommendation:**

- In accordance with the comments above, review all assessments and provide more robust detail on and justification for the predicted impacts of plan policies and 'reasonable alternatives' within the SA Report.
- Review methodological approach to policy assessments to ensure all of the key and reasonable social, economic and environment impacts have been identified.
- Undertake a cumulative impacts assessment and present it and relevant findings within the SA Report.

**Table 2: Reasonable Alternatives**

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|--|---|
| <ul style="list-style-type: none"><li>• Have 'reasonable alternatives' been identified and described?</li><li>• Have the reasons for selecting (a) the alternatives and (b) the preferred alternative been provided?</li><li>• Has a description of how the assessment of alternatives was undertaken been provided?</li></ul> | <ul style="list-style-type: none"><li>• SEA Directive Article 5 Annex 1 (h)</li></ul> |
|--|---|

**Comment:** It is the opinion of the Council that the DCNP SA Report does not meet the minimum requirements with regards to the identification, assessment and justification of reasonable alternatives to the preferred options proposed in the Plan. Despite the DCNP SA Report seeking to fulfil this requirement and providing commentary on options at various points, it is the Council's view that the necessary detailed justification for the options appraisal and its methodology is absent from this SA Report. The reasons for this are as follows. It is noted that Step 5 of the 'DIY SA' guidance goes into detail about how a neighbourhood planning group should best approach the consideration and assessment of options (Levett-Therivel, 2011, pp.21-24).

On a basic level, the detail relating to the consideration and determination of options for the DCNP is in various locations within the SA Report (e.g. Chapter 2, 3 and Appendix A). As such, gaining a full-understanding of this element of the process is at times difficult for the reader.

In terms of methodology, this element of the SA process should be one of the most collaborative and iterative to ensure all possible options are considered and robust justification is provided for either choosing or discounting specific options. Guidance on this even goes as far to state the "assessment of alternatives must be done as a group exercise, involving as many people as possible. You may want to ask a planning officer, or someone else who is impartial to be involved" (Levett-Therivel, 2011, p.21). The Council has provided support throughout the DCNP SA process, but following the Scoping stage Forum Members did not take advantage of the offers of advice or informal feedback. Specifically there are concerns that the SA Report states this options appraisal process "involved consideration of options in some but not all policy topics [and now the SA] has been carried out provide[s] the opportunity to document the options" (SA Report para 2.2). Irrespective of further concerns, this demonstrates that this process was not conducted in a logical, iterative and impartial way.

It is noted and welcomed that this SA Report identifies the 'do nothing' option as a reasonable alternative. However, the Council has concerns about how other options have and have not been identified and considered. For instance, no options were considered in relation to policy D4 (Housing for Older People and People with Disabilities) (SA Report, para 3.25). This is despite the fact that the Scoping Report identifies the plan area has an increasing ageing population (p. 47). So despite this being a key sustainability issue, the SA Report does not consider potential options by which planning policy can help to address associated issues and secure improvements. In other instances, the Council considered that the identified options are not reasonable. For example, in relation to the heritage policies the stance was either (a) do nothing and rely upon existing policy and legislation to protect assets or (b) develop more detailed and prescriptive policies that provide more stringent requirements and safeguards. The Council does not consider option (b) a 'reasonable alternative' because local policy

cannot supersede national legislation and there are concerns that such an approach is not in accordance with current thinking on management of the historic environment – e.g. constructive conservation. Fundamentally, in many instances different policy approaches or more detailed options have not been considered, which earlier consultation with Council officers would have raised as options.

Finally, even though the SA Report follows the broad template provided in the DIY SA' guidance, it does not take into account the advice to “explain why, in each case, you chose the preferred alternative. This explanation is very important – don't skimp on it and be honest” (Levett-Therivel, 2011,p. 28). This point is fundamental to the Council's concerns about this legal requirement as an SA Report must be clear on the choice and justification of the preferred options chosen. As with the findings of the policy assessments, overall it is considered there is insufficient detail or justification provided for the assessment of the options considered. For instance, “Chapter 4 of the Scoping Report does not put forward options for Policy D5. Policy D5 is written accordingly and assessed against the sustainability objectives and probing questions” (SA Report, p. 132). More relevant explanation was provided with regards the proposed housing allocations, however, assessment was undertaken as required. The SA Report identifies that appraisal confirmed there were seven sites within the area suitable for housing (para 3.22). However, the detail within Appendix A demonstrates that discussions with other stakeholders and other evidence informed site selection. Moreover, it is not evident that site specific assessments were carried out in order to inform the overall impacts of Policy D1.

**Recommendation:**

- Reconsider approach to the identification, assessment and justification of reasonable alternatives after review of comments and guidance documents.
- Amend the SA Report in accordance with comments above.

**Table 3: Mitigation Measures**

Questions	Relevant Requirement
<ul style="list-style-type: none"> <li>• Have mitigation measures been proposed for all significant adverse effects on the environment of implementing the Plan?</li> <li>• Is a description provided of any likely post-mitigation residual impacts included?</li> </ul>	<ul style="list-style-type: none"> <li>• SEA Directive Article 5 Annex I (g)</li> </ul>
<p><b>Comment:</b> Mitigation measures or residual effects have not been addressed in this SA Report because no adverse impacts were identified as a result of assessment of preferred option policies and allocations (DCNP SA Report, p. 12). This is a minimum requirement of the SEA Directive as noted above. See comments under Table 1 for further detail.</p>	
<p><b>Recommendation:</b></p> <ul style="list-style-type: none"> <li>• In accordance with recommendations in Table 1, review assessments and consider potential mitigation measures and residual effects for any adverse impacts identified.</li> </ul>	

**Table 4: Monitoring Framework**

Questions	Relevant Requirement
<ul style="list-style-type: none"> <li>• Has a monitoring programme of significant environmental effects of implementing the Plan been described?</li> </ul>	<ul style="list-style-type: none"> <li>• SEA Directive Article 10 Annex 1 (i)</li> </ul>

<ul style="list-style-type: none"> <li>• Does the monitoring programme allow unforeseen adverse effects to be identified, for instance, where assumptions underpinning the SA Report's impact predictions may not come true in practice?</li> <li>• Have thresholds / trigger levels been assigned which will determine the need for appropriate remedial action?</li> </ul>	
<p><b>Commentary:</b> Importantly the SA Report presents a proposed monitoring framework for the DCNP, which includes specific indicators, lead responsibilities and relevant targets.</p> <p>However, there is a question over precisely which body or persons are responsible for conducting specific monitoring actions and, where necessary, taking action. It is the 'responsible authority' which must take the lead on monitoring the impacts of the Plan: in this case, that is either Durham City Forum or the Durham City Parish Council. Clarifying this and the role Durham County Council has to play will be vital.</p> <p>Following on from comments within table 1, it is not clear that the monitoring proposals relate to the significant or cumulative effects of the Plan. As highlighted in guidance ('DIY SA', Levett-Therivel, 2011, p. 29), "legislation requires plan-makers to monitor the significant effects of their plans".</p>	
<p><b>Recommendation:</b></p> <ul style="list-style-type: none"> <li>• Forum Members to consult with Durham County Council and the emerging Durham City Parish Council regarding Plan monitoring to establish a workable framework and accountability prior to plan adoption.</li> <li>• Review the identified effects of the Plan and identified the cumulative effects (see comments in table 1) as these should be linked to monitoring proposals.</li> </ul>	

<b>Table 5: Non-Technical Summary</b>	
<b>Questions</b>	<b>Relevant Requirement</b>
<ul style="list-style-type: none"> <li>• Does the SA Report include a Non-Technical summary?</li> <li>• Does the Non-Technical summary clearly summarise the following: <ul style="list-style-type: none"> <li>a) contents and main objectives of Plan</li> <li>b) current state of the environment and evolution</li> <li>c) environmental characteristics of area significantly affected</li> <li>d) existing environmental problems</li> <li>e) environmental protection objectives</li> <li>f) significant effects on the environment</li> <li>g) mitigation measures</li> <li>h) alternatives</li> <li>i) monitoring?</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• SEA Directive Article 5 Annex I (j)</li> </ul>
<p><b>Comment:</b> A Non-Technical Summary has not been provided in support of this SA Report. This is a minimum requirement of the SEA Directive as noted above.</p>	
<p><b>Recommendation:</b></p> <ul style="list-style-type: none"> <li>• Draft a Non-Technical Summary which includes elements a) to i) listed above prior to the Submission stage of the plan-making process.</li> </ul>	



**Table 6: Consultation**

Questions	Relevant Requirement
<ul style="list-style-type: none"> <li>• Have the Neighbourhood Plan and accompanying SA Reports been made available to the designated authorities and the public?</li> <li>• Have the designated environmental authorities and the public been given an early and effective opportunity to express their opinion on Neighbourhood Plan and accompanying SA Reports?</li> <li>• Have the SA Reports and the opinions expressed by the designated authorities and the public during consultation been taken into account during the preparation of the Neighbourhood Plan?</li> </ul>	<ul style="list-style-type: none"> <li>• SEA Directive Article 6(1)/6(3)</li> <li>• SEA Directive Article 6(2)/6(4)</li> <li>• SEA Directive Article 8</li> </ul>
<p><b>Comment:</b> Prior to the Pre-Submission public consultation, the joint SEA and HRA Screening Opinion and SA Scoping Report were made available to the Council and statutory consultees (i.e. Historic England, Natural England and the Environment Agency) for comment. This gave both bodies the opportunity to express their opinions and advise on amendments. It is the Council's view that recommendations on these two documents have been taken into account.</p> <p>The Council presumes that the revised SA Scoping Report and draft SA Report has been submitted to the statutory consultees as part of this public consultation process. It is nonetheless noted that the revised Screening Opinion has not be made available as part of this public Pre-Submission consultation.</p> <p>Given the current stage in the plan-making process, the Council cannot comment on whether the final SA Report reflects the opinions expressed by the Council, statutory consultees or members of the public.</p>	
<p><b>Recommendation:</b></p> <ul style="list-style-type: none"> <li>• Publish a copy of the Durham City Neighbourhood Plan SEA and HRA Screening Opinion.</li> <li>• Seek views from statutory consultees on SA Report and ensure their comments and other representations are taken into account and amendments made, where relevant.</li> </ul>	

# Appendix C

## Detailed observations and recommended changes by policy

### Theme 1: A city with a sustainable future.

The county council has previously provided comments upon earlier iterations of the Durham City Neighbourhood Plan (DCNP) which have not yet been addressed. The Neighbourhood Plan Forum are again invited to reconsider the comments previously provided.

#### Vision

The county council supports the proposed Vision set out in (4.7).

#### Objectives

The objectives set out in 4.8 fail to fully reflect the actual stated scope of the policies proposed within this section of the plan given Policy S2 includes alterations to existing buildings.

Furthermore it is unclear as to whether the intention of this section of the plan is to relate to all new proposals requiring planning permission which fall within the wide planning definition of 'development' or whether this has been intentionally omitted and a much narrower scope relating to new buildings and conversions/ renovations of existing buildings adopted.

#### Context

The county council considers that this section is an accurate and appropriate reflection of the existing context in this regard.

#### Justification

At 4.13 the county council considers that the text does not fully reflect the actual scope of the policies in this section of the plan as Policy S2 also relates to 'renovations and extensions' to existing buildings.

Furthermore, as mentioned above it is unclear as to whether the intention of this section of the plan is to relate to all new proposals requiring planning permission which fall within the wide planning definition of 'development' or whether this has been intentionally omitted. This ambiguity is replicated in the titles and opening sentences of Policies S1 and S2. It is also very unclear as to whether it is intended

that these policies may be used in conjunction with one another in some instances, particularly where a proposal relates to part new build and part conversion. It would be prudent to combine these policies or make it more explicit if they are intended to be used in conjunction with one another, particularly as some of the criteria potentially relates to all proposals.

At 4.16 it is presumed, having read the remainder of the justification that reference is made to the county council's strategies to demonstrate that the policies within this section support and compliment these. It is suggested that the text is amended to clarify this so as to provide a clearer justification for these policies.

Furthermore, in the interests of clarity the justification text (at 4.13 -4.23) would in parts benefit from a degree of rationalisation and rewording to ensure that a clear and focused justification for the policies is apparent to the reader.

At 4.23 the relevant saved local plan policy has been referenced. The text would appear to relate to the content of saved Policy U9 and not U10 as stated. This point has previously been highlighted to the Forum.

## **Policy S1**

Whilst the county council supports the inclusion of a policy which sets out parameters for judging the sustainability credentials of a proposal, as specified in a recent Health Check it maintains that in the interests of clarity and effective future application of the policy the opening sentence should be reworded. For example:

*'Support shall be given to the development and redevelopment of sites which fulfil all of the following criteria that are applicable to it'*

As it reads at present it is not clear whether the policy would support a proposal if only one of the criteria is met.

Furthermore the county council continues to have concerns about the following criteria set out in this policy in the interests of facilitating the effective application and defence of this policy at appeal:

**Criterion 7:** It is considered that this criterion should simply refer to designated and non -designated heritage assets or provide an exhaustive list of those assets should be included. At present the list provided is incomplete and reference to heritage asserts is repeated in the same sentence.

**Criterion 8:** It remains concerning that specific reference is not made to biodiversity. Although it could be argued that biodiversity is included within the term 'green assets' this is not explicit and a definition is not provided within the plan. The county council considers that the use of the term 'natural environment' or provision of a clear definition is required.

**Criterion 11:** In order that it is clear that this criterion relates to ensuring a development's has a good relationship to existing transportation opportunities is considered that this should be amended to read;

*'ease of access to public transport, walking and cycling opportunities'*

Since the Health Check **criterion 2** has been amended. This criterion now effectively introduces a sequential test. There is already well established national and local Green belt policy available for determining the acceptability of development in the Green Belt. Therefore it is considered that *'to protect the Green Belt'* should be deleted.

## **Policy S2**

Whilst the county council supports the inclusion of a policy which sets out parameters for judging the sustainability credentials of a proposal, as specified in a recent Health Check it maintains that in the interests of clarity and effective future application of the policy the opening sentence should be reworded to read. For example:

*'Support shall be given to the alteration or extension of existing buildings which fulfil all of the following criteria that are applicable to it'*

As mentioned earlier it is unclear at present as to what type of development this policy relates to given the reference to 'new building development' which would appear to replicate the purpose of Policy S1.

Furthermore the county council continues to have concerns about the following criteria set out in this policy in the interests of facilitating the effective application and defence of this policy at appeal:

**Criterion 1:** This criterion does not accord with paragraph 63 of NPPF. The implication is a resistance to modern architecture and stifling of innovative design.

**Criterion 4:** The wording introduces an intangible measure which could result in inconsistent decisions.

**Criterion 5:** Clarification as to what constitutes 'water environment' should be provided.

**Criterion 9:** As there is ambiguity regarding the scope of developments relating to Policies S1 and S2 it is unclear as to whether should in fact be located in Policy S1. Furthermore, the unstated implication of this criterion is that proposals relating to under used or occupied building are not supported which may be an unintended consequence.

In conclusion to this part of the plan the county council is disappointed that the majority of the above concerns have been previously submitted to the Forum as this version of the plan was being prepared prior to this consultation. As a consequence of the above concerns the county council has no alternative but to formerly object to Policies S1 and S2.

## Theme 2- A beautiful and historic city – Heritage

The county council has previously provided comments upon earlier iterations of the Durham City Neighbourhood Plan (DCNP) which have not yet been addressed. The Neighbourhood Plan Forum are again invited to reconsider the comments previously provided.

### Vision

Given the wealth of heritage assets within the Neighbourhood Area it would be very remiss of the Forum not to cover heritage matters within the neighbourhood plan. It is nonetheless evident that the terminology adopted does not reflect the most up to date policy approach which seeks to 'conserve' as opposed to 'preserve' such assets. Whilst the Principal Act has not been amended to take this into account it is widely accepted, and circulated within current guidance from Historic England that the thinking has moved on. Therefore, in accordance with previous advice given to the Forum, it is considered that it is essential that this matter is addressed within the vision and throughout the wider plan. Until this is addressed the county council will remain gravely concerned that the plan will convey an unfortunate message of stagnation for the City - as a consequence of 'preservation' - rather than promoting a willingness to manage change which positively sustains the unique heritage of the area through conserving and enhancing.

### Objectives

**Objective 1:** The approach does not reflect current national policy approach to heritage matters as set out above.

**Objective 2:** The approach does not reflect current national policy approach to heritage matters as set out above.

**Objective 3:** The county council wishes to draw attention to the Forum of a potential conflict between Objective 3 and criterion 1 of Policy S2 if it chooses not to address that criterion's conflict with NPPF as set out earlier in this response.

**Objective 4:** Neighbourhood Plans can recommend sites for consideration for designation and formulate a local list of interest, however the county council does not operate a formal local list.

### Context

**At 4.27** the county council wishes to draw to the Forum's attention that the last sentence refers to '*theme*' as opposed to 'plan'

**At 4.29** the text does not reflect current national policy approach to heritage matters as highlighted earlier in this response.

**At 4.30** the county council considers that it would be useful to provide clarity as to the origins of the list of non-designated heritage assets and where the 'At Risk' buildings set out in appendix C have been derived from. Furthermore, the county council is unclear as to whether the associated land owners have been informed of the Forum's

intentions either prior to or as part of this consultation. Appendix C contains buildings which have already been demolished including those on Claypath. The criteria used to identify further buildings which were not contained in the CACA is not clear and there is some confusion between notable unlisted buildings and non-designated heritage assets, which clearly have differing tests in the planning process. The group need to be clear which terminology they are using and for what purpose.

### **Justification**

In general terms the county council considers that text within this section represents context rather than a justification for the policy and would benefit from being moved accordingly from a readers perspective.

**At 4.34** The county council considers that reference made to the design issues and options paper (2009) and forthcoming SDP should be deleted as these references are out of date and superfluous to the justification for this suite of policies in any event.

### **Policy H1: Protection of the World Heritage Site**

The county council is concerned that this policy extends beyond the scope of a neighbourhood plan. As an internationally designated asset, it is of a strategic nature which is and will continue to be addressed in the Local Plan for the area. Its inclusion is provides unnecessary repetition within the planning framework for the area. The county council therefore strongly opposes the inclusion of this policy. This text would be appropriate to the supporting policy text.

Notwithstanding the above objection the following concerns are also apparent:

**At H1.1** the council wishes to draw to the Forum's attention the fact that wording of this part of the policy is an aspirational intent rather than a means by which a development proposal can be assessed.

**At H1.2** reference to '*preferably*' is considered by the council to be inappropriate and should be replaced with 'or' as both policy requirements cannot be achieved together.

**At H1.3** the council wishes to draw attention to the fact that a planning application could not be refused on the grounds that criterion (a) was not complied with. This is a procedural matter for the validation of planning applications. The council therefore urges that this criterion is reworded along the lines of:

*'Demonstrate that they are not harmful to the significance of the World Heritage Site in respect of its appearance and setting'*

### **Policy H2: The Conservation Areas**

The county council considers that this policy misses the opportunity to articulate the qualities of the area that contribute to its significance.

**At H2.1** the county council is concerned that the text does not provide an effective policy criteria for the decision-maker to judge an application against. The Forum is urged to move this statement of intent into the justification section of the plan or reword this part of the policy as the impact that a development proposal has on a conservation area is clearly set out in existing local and national policy.

Alternatively the text should be reworded. For example:

*‘Development proposals within or affecting the setting of the Durham City Conservation Area should seek to respect the distinctive heritage values identified within the associated Conservation Area Appraisal’.*

**At H2.2** in accordance with advice previously given in the Health Check in the interests of clarity and effective application of the policy the county council considers that the policy should be reworded to include:

*‘within or affecting the setting of’*

It is also urged that the policy should be reworded to reflect the fact that all requirements will not always be applicable to a proposal by rewording to

*‘following requirements where applicable’*

The county council also has the following concerns:

**Criterion 1:** This introduces a test which is higher than that required by NPPF and the Local Plan for the area as the exceptions set out in para 133 and content of para 134 of NPPF have not been taken into account. This issue is repeated in Policy H5 and H6. This matter has been conveyed to the Forum through the health Check process. It is urged that reference is made to ‘any harm’ to take into account para 134 of NPPF.

**Criterion 5 & 6:** The county council consider that this provides unnecessary repetition and the policy would benefit from the merging of these two criteria. Furthermore ‘and’ should be amended to ‘or’ regarding traditional/ non-traditional design as it may not be appropriate to require both in one scheme.

Furthermore the reference made to applicants in criterion 6 relates to a validation requirement rather than a policy requirement and as such should be moved into the supporting text.

**Criterion 8:** The county council considers that ‘presumption in favour’ should be amended to ‘retain’ to ensure greater precision in the application of the policy.

**Criterion 9:** The county council does not consider that this criterion is relevant to the scope of this heritage related policy and is more fitting to be included within policy S1 or S2.

**Criterion 10:** The county council considers that this criterion reads as an objective rather than a criteria for judging a planning application. There is however scope to link the cumulative impact issue with criterion 2. Furthermore

it is unclear what is meant by the term 'uniform use' which will make practical application of this criterion difficult.

From an editorial perspective it is noted that there are errors with the referencing of the final two criterion. This should be addressed in the interests of clarity and practical application of the policy.

### **Policy H3: The Character Areas**

It is the county council's understanding that this policy is intended to be applied in addition to Policy H2. This results in some unnecessary duplication of criteria. The county council considers that this policy also misses the opportunity to articulate the qualities of the area that contribute to its significance.

If it is to be retained then it is urged that care is exercised to avoid such duplication of content in the interests of effective practical application of the policies. Furthermore the following concerns are raised in relation to specific criteria:

**Criterion 5:** The county council maintains that this is not worded as a policy criteria and should be reworded to overcome this or be moved into the supporting text.

### **Policy H4: Our Neighbourhood outside the conservation areas**

The county council is concerned that the scope of this policy is already covered in Policy S1, and it is unclear as to what added benefits policy H4 will bring over and above Policy S1. Therefore in the interests of the reader it is urged that such repetition is avoided.

### **Policy H5: Listed Buildings, Scheduled Ancient Monuments, Registered Parks & Gardens and Registered Battlefields**

As highlighted earlier in this response the county council is concerned that this policy seeks to set a higher test than that of established national and local policy and without adequate justification for doing so. In any event the county council has in conveying its concerns about this policy has previously advised the Forum that the policy refers to 'all designated heritage assets' however the title does not include the exhaustive list of these. This presents ambiguity in the practical application of the policy. This could be addressed by the insertion of a footnote.

However even if this were to be remedied, the council also considers that this is a strategic matter which is adequately covered by existing national and local policy and therefore considers it would be unnecessary repetition as it does not provide a locally distinctive dimension to the plan.



**At 4.58/9** - instead of 'Keys to the Past' the plan should refer to DCC's Historic Environment Record. It is also advised that the word 'archaeological' is inserted before 'sites' for clarification. Throughout the document 'Scheduled Ancient Monuments' should now be referred to simply as Scheduled Monuments.

### **Policy H6: Non- designated heritage assets**

**Criterion H6.1:** This is not consistent with NPPF guidance and sets a higher bar than national guidance given the exceptions set out in para 133 of NPPF are not referred to. The county council does not have a local list, however neighbourhood plans can instead identify 'heritage assets of local interest'.

**Criterion H6.2:** It is considered that the scope of this criterion is already covered in Policy S2. The county council is also concerned that the manner in which this criterion is worded will result in unintended consequences. The policy should be reworded to reflect the fact that proposals will still need to accord with any other policies if it is to be retained.

In conclusion to this part of the plan the county council is disappointed that the majority of the above concerns have been previously submitted to the Forum as this version of the plan was being prepared prior to this consultation. To reiterate the county council are concerned that the consultation document simply reiterates NPPF guidance and in most cases seeks to impose a higher test than that set out in Section 12 of the Framework. The focus of the document should be localised and locally relevant, however as currently written it seeks to address strategic issues which will be more appropriate for inclusion in the County Durham Plan. As a consequence of the above concerns the county council has no alternative but to formerly object to the heritage policies.

## **Theme 2b: A Beautiful and Historic City**

The county council has previously provided comments upon earlier iterations of the Durham City Neighbourhood Plan (DCNP) which have not yet been addressed. The Neighbourhood Plan Forum are again invited to reconsider the comments previously provided.

### **Vision**

The county council supports the proposed Vision set out in 4.6.

### **Objectives**

In respect to Objective 4 the NPPF is a material planning consideration and it is therefore not an appropriate plan objective.

### **Context**

The county council welcomes the inclusion of a definition of 'green assets'.

## Justification

At 4.63 clarity is required as to whether Appendix E is an exhaustive list of green assets within Our Neighbourhood to which policy G1 applies.

At 4.76 the text suggests repetition of existing policies.

## Policy G1

The use of sub headings to break up this lengthy policy is welcomed. However the use of 'or' between each criteria suggests that a development only needs to meet one of these to be acceptable and it is not clear as to whether this is the Forum's intention given the nature of the criteria.

**Criterion G1.1 & G1.2** It is unclear whether this part of the policy relates to all 'development' (the scope of which extends beyond the provision of new buildings) or just relates to the provision of new buildings. The policy should be reworded to make this clear. Furthermore, it is unclear as to what is meant by 'or equivalent other type of development'.

**Criterion G1.4** The county council considers this criteria to be inappropriate as it is not justifiable to refuse consent on the basis of a public right of way diversion as this is a consideration governed by a separate legal process. It is considered that this should be reworded so that it does not read as policy and be included within the context section of this chapter.

**Criterion G1.3 (3)** The county council questions the appropriateness of this requirement in terms of whether it would be achievable given the confined nature of the plan area it is unlikely that a developer will be able to identify an alternative site. The policy should recognise that off- site compensation measures may not need to be in the plan area. Section 106 contributions can now be directed to suitable sites further afield.

**Criterion G1.5** The county council is not convinced that an application could be refused on this matter alone as it is a matter that would need to be balanced with other planning considerations. Furthermore it would be very difficult for the decision maker to define whether an 'island' has been created. It is considered that the wording of this criterion should be amended to read as a requirement rather than an outright refusal.

**Criterion G1.6** In order to implement this policy green corridors should be mapped. It is not clear as to whether Maps 6 and 7 provide the clarity required to implement this criterion or whether further sites need to be mapped.

**Criterion G1.7** This part of the policy would benefit from rewording. Whilst unclear at present it is assumed that point 1 relates to onsite mitigation and point 2 relates to off -site mitigation to compensate for loss, though this is not sufficiently clear at present.

**Criterion G1.8.** The county council does not consider that it is appropriate to have 'and' between each criterion given their nature. Furthermore point 2 is not an appropriate policy requirement. The making of a TPO is subject to separate legislation. The policy would benefit from a distinction being made between point 1 & 3 as point 1 explicitly relates to ancient woodland whereas it is presumed that it was the Forum's intention for point 3 to relate to other woodland and trees. Finally the policy would benefit from having a separate criteria relating to replacement of lost trees as at present the policy does not require compensation in response to the loss of ancient woodland. Any compensation for the loss of ancient woodland would have to be the creation of new woodland, greater than the area lost with associated long term funded management preferably adjacent to an existing ancient woodland.

**Criterion G1.9** The reference to 'major redevelopments is considered to be superfluous as this is captured in the scope of the term 'new developments'. The county council is concerned that this requirement is written in a manner which does not acknowledge that provision of a pedestrian route along the riverbank cannot always be feasible or desirable. Therefore, it would be more appropriate to use the term 'demonstrate' as opposed to 'provide' It is presumed the Forum's intention is to ensure that a new development can be safely accessed by whatever route is appropriate to that development. The county council considers that in providing such access points regard still has to be had to the impact upon public safety, ecology and/ or heritage.

The county council considers that the criterion should be amended accordingly in the interests of clarity and flexibility.

**Criterion 1.10** The county council considers that in providing such access points regard still has to be had to the impact upon public safety, ecology and/ or heritage. It may not always be feasible or desirable to meet this criterion and the policy should be reworded to reflect this in the interests of flexibility.

## **Policy G2 Designation of Local Green Spaces**

The county council is concerned that it is not clear as to why some sites have been identified as Local Green Space and others have not. LGS designations can include areas that providing habitats for wildlife and natural corridors, however parts of the River Wear corridor are very narrow and whether the area proposed as LGS would function as corridors is debatable. The council is aware of a number of sites with similar credentials which have not been subject to this designation. An evidence base which shows a wider set of possible Local Green Space sites that were systematically considered and the selection criteria (which should include that set out in paragraph 77 of NPPF) that led to sites being selected or discounted and boundaries being drawn has not been made available. Therefore the council is unable to determine whether the site selection and boundary extent is justified and robust. The council is also concerned that land owners (of which the council is one) were not contacted to discuss these proposals prior to this consultation.

Of particular concern is the fact that the policy fails to set out criteria for determining planning applications falling within these areas, including any exceptions. It is not

considered appropriate that the policy merely repeats the requirement set out in paragraph 78 of NPPF particularly given that much of Green Belt policy is not in itself relevant to the purposes of LGS designation.

## **Site specific comments**

### **The River Wear Corridor**

As noted previously, the county council is concerned that corridor as mapped is an extremely narrow but extensive strip of land of variable character / accessibility that may be difficult to defend as LGS in its entirety. Parts of the corridor as mapped are areas of narrow river bank in open countryside with no public access.

With the exception of the peninsula banks and small stretches near Baths Bridge and Freeman's Reach (which already lie within the Conservation Area) it lies entirely within the Green Belt. It isn't clear what additional protection if any LGS Designation would bring and particularly if the Policy itself only references 'NPPF policy for green belt'.

Consideration should be given to focussing on those river banks not within the green belt that have a strong function as local green space – and in particular the peninsula banks.

It isn't clear why the corridor on the peninsula banks should be so narrow - excluding the wider banks with their network of paths and restricting itself to the immediate riparian strip at the water's edge. We would recommend that the River Wear Corridor around the peninsula is redrawn to take in the full extent of the river banks – and certainly those areas with public access – rather than the very narrow strip along the water's edge which is currently shown. Something closer to the area mapped as *Peninsular Woodlands* under G3.1.10 would be more appropriate.

### **Observatory Hill**

We note that 1.2 Observatory Hill now includes the former parkland setting of the Observatory to the west. As noted previously we would recommend that, if it is considered appropriate to identify this area as LGS, the area should be enlarged to take in the field falling from Elvet Hill / St Aidan's south of Potter's Bank, St Cuthbert's Cemetery, and the field north-west of St Mary's crossed by footpath 40 (below).



**Flass Vale Local Wildlife Site and Local Nature Reserve and North End allotments and leisure gardens;**

As noted previously, with the exception of a small parcel south-west of Flassburn Road (which is within the LNR) the whole area is included in the Green Belt. The county council does not consider that it is clear what additional protection if any LGS designation would bring particularly as the Policy itself only references 'NPPF policy for green belt'. This puts into question whether this proposed designation is justified.

**St Margaret's Cemetery plus St Margaret's allotments**

We note that this now includes the whole of the cemetery as advised.

**DLI Grounds**

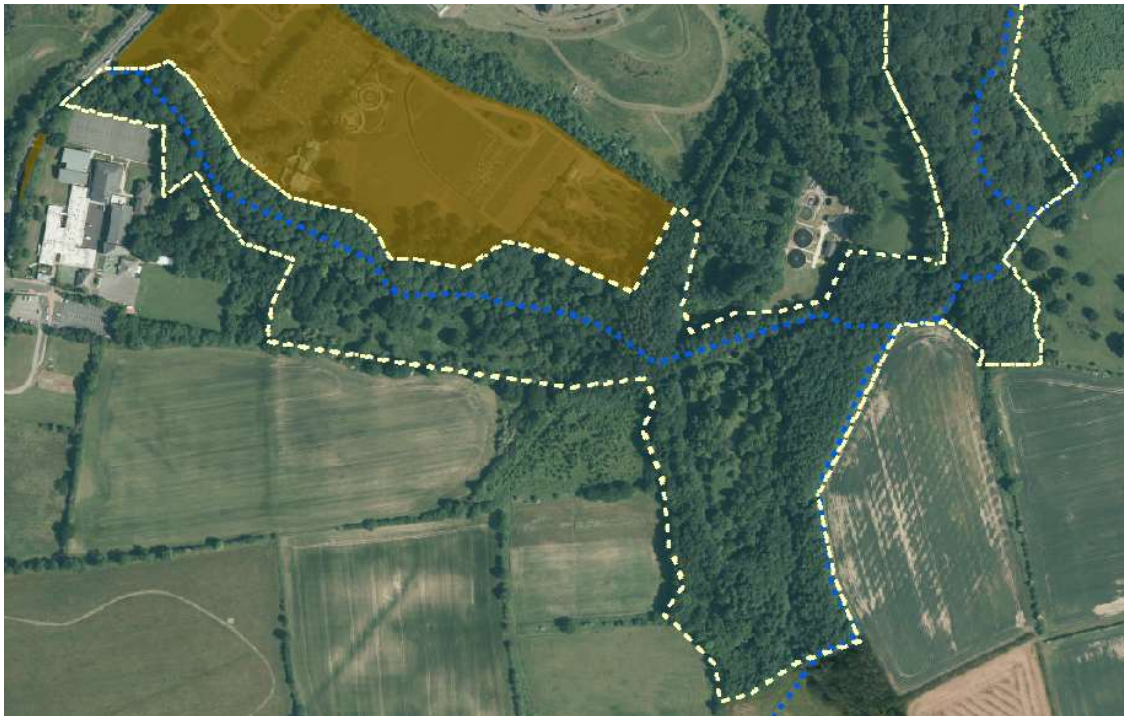
As noted previously, the whole site is included in the Green Belt. Again the county council does not consider that it is sufficiently clear what additional protection if any LGS Designation would bring, again particularly as the Policy itself only references 'NPPF policy for green belt'. This puts into question whether this proposed designation is justified.

**Woodland on the south side of the City, comprising Maiden Castle Wood, Great High Wood, Hollingside Wood and Blaid's Wood.**

All of these woodlands lie within the Green Belt. As with previous sites it is not clear what additional protection if any LGS Designation would bring.

As noted previously it is not clear why the woods in the dene south of Blaid's Wood and connecting with Hollingside Wood and Low Burnhall Wood should be excluded as they are of a similar character with similar levels of public access and link together to form a single unit.

If these woodlands area identified as LGS consideration should be given to including their full extent: something closer to that shown below.



### **Battle of Neville's Cross: the undeveloped area of the battlefield site within Our Neighbourhood.**

The whole undeveloped area of the battlefield is included in the Green Belt. Again the county council consider that it is not clear what additional protection if any LGS Designation would bring for the same reasons set out in respect to previous sites.

### **Policy G3: Creation of the Emerald Network**

The council is concerned that land owners (of which the council is one) were not contacted to discuss these proposals prior to this consultation. Therefore the deliverability of this proposal is uncertain.

The council is very concerned that this policy is not sufficiently explicit. The role of the Emerald Network in enhancing biodiversity needs to be an unambiguous aim. As such the county council is very concerned that it will just deliver for public access / recreation at the expense of the existing biodiversity value, especially as many of the sites are

ancient woodland and increasing access links to and through these sites will have impacts on biodiversity.

**Criterion G3.2** the county council considers that the policy should recognise that there may be instances where appropriate mitigation can be secured to offset harm, for example in relation to recreational use of ancient woodland which would arise as a consequence of the policy relating to the Emerald Network. Furthermore it is not clear what is meant by improving 'amenity of sites'. The policy should that acknowledge that amenity improvements can have negative impacts on biodiversity. The county council considers that the policy should be reworded to clarify these points.

#### **Policy G4: Enhancing the beneficial use of the Greenbelt**

The county council firmly considers that greenbelt policy is a strategic planning matter which is not within the scope of a neighbourhood plan. Notwithstanding this objection to the scope of the plan in this respect, it is acknowledged that Forum are seeking to address a planning matter relating to paragraph 81 of NPPF to enhance the Greenbelt. However, it is the council's interpretation that the intention of paragraph 81 is to direct plan makers to identifying specific proposals which will result in the beneficial use of the Greenbelt. However the Forum has failed to do this by merely repeating the opportunities recognised as being appropriate by NPPF and converting these into policy. In doing so it is unclear as to how this policy would be applied in relation to exceptions proposals or proposals where exceptional circumstances can be demonstrated, as it reads as an additional requirement on development over and above strategic policy where that may proposal may already be acceptable in those strategic policy terms. There is also the serious risk that the policy could be misinterpreted given that there is no reference in the policy to the need for a proposal to demonstrate exceptional circumstances or be one of the exceptions set out in paragraph 89-90 of NPPF. The fact that reference to this is made in the justification is not considered to be sufficiently robust.

**At 4.86** It is not considered that the justification presented is appropriate given that it is a view, rather than a judgement based upon evidence.

Whilst the county council firmly considers that this policy should be deleted in its entirety if it is to be retained the matters raised should be clearly addressed.

### **Theme 3: Diverse and Resilient Economy**

The county council has previously provided comments upon earlier iterations of the Durham City Neighbourhood Plan (DCNP) which have not yet been addressed. The Neighbourhood Plan Forum are again invited to reconsider the comments previously provided.

#### **Vision**

The County Council supports the proposed Vision set out in 4.88

## Objectives

**Objective 2:** The county council is considered that the draft plan seeks to address strategic planning matters through this policy. It is not the role of a neighbourhood plan identify strategic sites.

## Context

**At 4.91** It is unclear what is meant by 'limited lunchtime economy' and how this has been evidenced.

## Policy E1: Larger Employment Sites

**Site E1.1 Aykley Heads**, the county council firmly considers that the site is 'strategic' and therefore should not be included in the Neighbourhood Plan in any form as it is a matter for the Local Plan. The county council therefore strongly opposes the inclusion of this policy and further references to it within the supporting text of the policy.

**Site E1.2 Durham Science Park**, , the county council firmly considers that the site is 'strategic' and therefore should not be included in the Neighbourhood Plan in any form as it is a matter for the Local Plan. Notwithstanding this the county council would advise on-going discussion with the landowners to understand the site's availability and their aspirations for the type of development on the site.

## Policy E2: Other Employment Sites

**E2.1** The county council is concerned over how the sites in E.2.1 will be developed given that they appear to currently have buildings and structures on them. The 'term' development needs defining for the purpose of this policy. With regards to all three sites, the county council would advise on-going discussion with the landowners to understand the site's availability and the owner's aspirations for the type of development on the site.

In addition it is unclear what 'district centres' the plan refers to, these do not appear to be defined and are not mentioned within the supporting text.

**Site E2.1.1 Blagdon Depot**, as acknowledged within para 4.113 the site is located within Green Belt. The County Council is concerned that the exceptional circumstances for development within the Green Belt are not articulated and not supported through sufficient evidence.

In relation to flood risk on the site, the County Council advise that given the identified flood risk, a sequential test should have been carried out prior to allocating which would form part of the evidence for its allocation. This presents a procedural issue for the plan that must be addressed.

The policy is proposing uses within the A2 and B1 use class that by definition within the Annex 2 of the NPPF would be main town centre uses that should be located with the town (city) centre in the first instance. This site would represent an 'edge of centre' site by the boundaries defined within the Plan. The county council would advise that such an allocation should be justified by evidence including a sequential test, looking



at the potential of sites within the city centre first. This presents a procedural issue for the plan that must be addressed.

Given all of the above, the county council strongly advises that the allocation of this site requires further consideration.

**Site E2.1.2 Providence Row**, the county council advises that given the identified flood risk, a sequential test should have been carried out prior to allocating which would form part of the evidence for its allocation. This presents a procedural issue for the plan that must be addressed.

**Site E2.1.3 Fowlers Yard**, the county council is unclear on the rationale for this site's allocation for A2 and B1 given that, as acknowledged, it is 'an area already thriving as craft and specialist shops'. Furthermore, the site falls within the ownership of the county council and it is concerning that the proposals for this site have not been explored with the council as land owner.

**E2.2** The county council is concerned over the wording within this policy which is very general. For example there may be instances where a windfall brownfield site would be wholly inappropriate for residential development due to other issues such as amenity.

The county council wishes to point out that in the interests of clarity the wording of paragraphs 4.114 – 4.116 should be reconsidered. Furthermore, in respect to this text:

**At Para 4.114** the county council is concerned over the emotive wording within this paragraph. There is no evidence that the approvals have been unsupported. Notwithstanding this the positioning of this text within this part of the plan is questioned.

**At Para 4.115** the county council is concerned over the wording within this paragraph. It implies that businesses should be located on these sites in the first instance. Whilst unclear what type of businesses the text refers to, if it is interpreted that it refers to A2 and B1 uses, it should be noted that these are town centre uses and should not be restricted by having to locate to these allocations. In addition the reference to 'local centres' is confusing as these do not appear to be defined anywhere within the Plan. The paragraph as a whole is confusing and should be amended.

**At Para 4.116** the county council is unclear as to what an 'external, flexible space' is and how this could be assessed and applied through the Development Management process.

### **Policy E3: Retail Development**

**Part A** the county council is extremely concerned that the Plan redefines the town centre boundaries alongside retail frontages which are contrary to evidence within the Council's Retail and Town Centre Study. Particular concerns relate to the defined Primary Frontage which significantly extends this area from that recommended within the Retail and Town Centre Study.

The policy identifies that the Primary Frontage should be in mainly retail use. Further clarification is required in relation to the word 'mainly' in terms of the application of the policy.

Further to this another significant concern is whilst the intended aim may be to encourage retail development and uses into these areas, and also acknowledging E4.2, extending the extent of this area could potentially restrict non retail town centre uses coming forward that could offer vibrancy and vitality to the City Centre. Given the acknowledgement that retail development is 'leisure led development' (para 4.126), the policy could act as a barrier to future investment within large areas of the city centre.

The county council urges that the following areas, in particular, defined as Primary Frontage to be reconsidered:

**The Gates/Riverwalk:** The redevelopment of the site (currently under construction) is a leisure led development (cinema and restaurants) alongside student accommodation. The character of this area will no longer be retail and therefore the county council is concerned that designating the whole of this area as Primary Frontage would not correctly reflect it. The county council therefore considers that the northern area of the site which is to incorporate the cinema and A3 uses should be removed from the Primary Frontage.

**Milburngate:** This area of the city centre has historically never been in retail use and as the county council has granted planning permission (subject to a legal agreement) for a scheme that will incorporate leisure, office and residential elements, it is therefore not considered appropriate to define the area within the Primary Frontage.

**North Road:** This area of the city centre has historically been secondary frontage which reflects the nature of the offer. Given the acknowledgement within the Plan that North Road should be 'upgraded' (para 4.97), the county council is concerned that such a restrictive policy approach may act as a barrier to new development coming forward.

Further to this, the county council is concerned that other areas that have been re-defined as Primary Frontage are not based on evidence and are not reflective of the nature of uses found within these areas.

**Part B** the county council is concerned that the policy reads as if all the criteria need to be conformed to by the use of the word 'and'. For certain developments, certain criteria may not be applicable or achievable.

#### **Policy E4: Primary and Secondary Frontages**

The county council has outlined specific concerns in relation to the centre boundaries and frontages (see comments on Policy E3).

**E4.1** The county council is concerned that this element of the policy does not provide a workable criteria for assessment. It is not possible to specify particular types of shop within the A1 Use Class and therefore a judgement on a proposal that will improve the range of shops cannot be made. It is urged that this element of the policy is reconsidered or removed.

**E4.2** The county council is concerned as to how such non retail uses will be assessed in relation to adding vitality and viability to the City Centre.

## **Theme 4: A City with attractive and affordable places to live.**

The county council has previously provided comments upon earlier iterations of the Durham City Neighbourhood Plan (DCNP) which have not yet been addressed. The Neighbourhood Plan Forum are again invited to reconsider the comments previously provided.

### **Vision**

The county council considers that this vision should be refined for the following reasons:

- Reference to students is superfluous and it could be construed as biased as other groups are not referenced.
- The plan does not define what constitutes a sustainable mix
- The term 'abilities' is not considered an appropriate term

### **Objectives**

The county council is concerned that Objective 1 is too generalised and does not reflect the nuances in different parts of the area that may demand a differing approach as reflected in the interim policy.

Furthermore, it is considered that the term 'contribute' is considered to be more appropriate than 'provide' when considering these objectives against the relevant policies as there are other forces that will also contribute to such delivery alongside the neighbourhood plan.

The council is unclear as to whether objective 3 is adequately evidenced. This should be clarified.

### **Context**

At 4.135 the county council is concerned that the implication of the masterplan is a view of the authors rather than an evidenced fact.

The text suggests that there is an imbalance across the whole plan area in respect to student accommodation which is contrary to available evidence. In doing so this reinforces negative connotations reflected in the vision and objective 1.

At **4.136** the county council considers that the text should make it clearer that the 200 unit target quoted is not a ceiling figure. Whilst the contribution to housing provision is supported the forthcoming Local Plan will determine the housing need for the entire County Durham Housing Market Area and its spatial strategy will apportion this to communities. Please note the most recent issues and Options document sets out 9 sub areas, as opposed to the 5 referred to.

### **Justification**

At **4.139** the text should be reworded to make it clear that this was one of the views expressed through the consultation rather than it being an evidenced fact, in the absence of such evidence. Furthermore the plan fails to clarify what is required to

address the imbalance referred to. This is unhelpful from a decision taker's perspective.

At **4.140** reference should be made to plan makers and decision takers given that the preparation of planning policies extends to qualifying bodies who are also bound by NPPF.

At **4.143** an incorrect statement is made and this should be corrected to reflect the fact that housing allocations will be set out in the forthcoming County Durham Local plan, not the SHLAA which is part of the evidence to assist in the identification of such suitable sites.

### **Policy D1: Land for residential development**

Whilst the principle of identifying housing sites within the plan area is an appropriate role for a neighbourhood plan the county council has a number of concerns regarding the approach taken by the Forum.

At **4.147** the text suggests that the focus of the Sustainability Appraisal has been heritage impacts which is too narrow a focus. Furthermore it is not clear as to whether the neighbourhood plan policies referred to will provide adequate mitigation for any impacts identified, particularly where they extend beyond heritage matters.

The council is also concerned that sites have been included with known flood risk in the absence of a sequential test. This matter must be addressed even where these have planning consent to ensure any alternative proposals are in accordance with the PPG.

In respect to the sites selected for allocation the council is aware that 4 of these already have planning consent for residential purposes and as such they are already included within the countywide housing land supply calculation. It is unclear as to whether the 200 dwelling unit need identified in the draft plan has taken these commitments into account and therefore whether they have been double counted. This needs to be clarified.

The county council is very concerned that the approach taken appears to be an attempt to restrict a renewal of any of these specific permitted schemes which through the grant of consent has determined their suitability. Further clarification as to why this approach has been taken should be provided.

The county council considers that the issues relating to the sites listed in 4.148 should have been addressed prior to this consultation for them to be included within the plan at all. The purpose of the consultation is to allow third parties to consider specific proposals. Notwithstanding this, as they have been included the county council also wishes to emphasise that it would be inappropriate to allocate any of the sites listed in **4.148** unless the issues identified can be resolved as they would not constitute suitable, deliverable sites.

The county council considers that it is unclear as to the degree of involvement site owners have had in the preparation of this policy. It is urged that this dialogue takes place at the earliest possible time.

## **Policy D2 Student accommodation in houses in multiple occupation**

Paragraph 156 of NPPF states that '*local planning authorities should set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver homes and jobs needed in the area.*'

The county council maintains that the inclusion of this policy is straying into a strategic planning matter and emphasises that it is the intention to address this issue in the forthcoming County Durham Plan in the Issues and Options document (Question 25). This matter is already the subject of an interim policy which covers the whole of the county, including other parts of the city that fall beyond the designated neighbourhood area. The consequence would be a conflicting, unjustified policy approach to this strategic matter which falls beyond the scope of a neighbourhood plan.

Notwithstanding the council's concerns regarding the scope of the plan in this respect the county council is concerned that Policy D2 includes a 20% population threshold, which is an additional unjustified requirement to the interim policy. It is not clear how 20% threshold has been derived. Furthermore, it is unclear how this can be monitored from a practical perspective. A realistic mechanism is properties. Furthermore, this policy does not include an exception clause (criterion e of the interim policy). There may be circumstances where an exception is justified.

## **Policy D3: Purpose built student accommodation**

The county council's concerns regarding the inclusion of Policy D2 extend to Policy D3. Again this policy represents a different approach to that set down in the interim policy. The council is concerned that this policy includes additional unjustified policy requirements in terms of introducing a 10% threshold regarding student exempt properties and a 20% threshold for PBSA. It is not clear how the 20% threshold has been derived. Furthermore there could be a scenario where further campus development could be restricted due to the application of then 10% threshold which would seem to be an unintended consequence.

At 4.154 it is not the role of the draft plan to propose an Article 4 Direction. It is recommended that the text be reworded to clarify that support would be given to the council in the making of such a direction should it be required. The reference to letting boards should read Regulation 7 which is subject to its own process.

## **Policy D4: Housing for older people and people with disabilities**

The county council supports the intent of this policy, which is aimed at helping to meet the needs of the County's aging population, and acknowledges that the Forum have changed this policy in response to some of the council's previous concerns.

The county council particularly welcome that the Forum have standardised the requirement for private and intermediate housing to a threshold of sites of ten houses to reflect the Government's Planning Practise Guidance. The county council also welcomes that the Forum have removed reference in the policy to granting permission

for adaptations on a temporary basis, a requirement which would be contrary to the government's Planning Practise Guidance on planning conditions. However, the final two sentences of paragraph 4.162 also need to be deleted to reflect this change.

The county council continues to have concerns about the use of the term 'adaptations' in policy D4.2 which does not have sufficient clarity with respect to determining planning applications. As written, it could be assumed that the policy includes adaptations to the interior of a dwelling which may be subject to Building Regulations, with this impression being reinforced by paragraph 4.162 of the supporting text. Building Regulation standards are defined in statute and their application cannot be amended by policy in Neighbourhood Plans.

As previously suggested, this terminology would benefit from being replaced with the following wording:

*'Extensions to houses and flats, including building works within the curtilage of a residential property which are needed to enable a resident to continue to live there and which also require planning permission will be permitted providing they are in keeping with the building and its surroundings'.*

However, this aspect of the policy does not appear to give any added value with respect to the determination of planning applications. Such proposals would, in any event, be permitted with respect to existing policies and the NPPF. The Forum may therefore wish to consider if this aspect of policy D4 is worthwhile.

## **Justification**

The comments we previously made with respect to justifying the requirements in the policy remain relevant and should be referenced.

## **Technical References**

There are a number of references to guidance and regulations in the supporting text which would benefit from greater clarity:

- **Paragraph 4.155** states that 'The NPPF notes that'. This would benefit from being replaced by: 'The government's Planning Practise Guidance states that':
- **Paragraph 4.160** states 'One way is through adoption and use of the relevant optional housing regulations. Housing regulations cover accessible and adaptable dwellings (M4 (2) Category 2: UK Government 2016)'. This would benefit from being replaced by 'One way is through adoption and use of the relevant building regulation standards. These optional building regulations include a standard for accessible and adaptable dwellings (M4 (2) Category 2: UK Government 2016)'.
- **Paragraph 4.161** states that 'We would strongly encourage developers to implement this housing regulation in building new houses or renovating existing houses'. This would benefit from being replaced by 'We would strongly

encourage developers to implement this optional building regulation standard in building new houses or renovating existing houses’.

### **Policy D5: Meeting other housing needs**

**Criteria 5.1** The county council is concerned that this policy sets a threshold of 15% which is 5% lower than the council’s delivery evidence base. If this lower threshold is to be pursued then it needs to be evidenced. Furthermore the policy should have regard to the fact that this requirement is a starting point for negotiation and will be subject to viability considerations, in accordance with national guidance on this matter.

**Criterion 5.2** The county council is concerned that the scope of the criteria is too narrow as there are other issues which may need to be factored into the consideration of whether conversion of a PBSA to self-contained units is appropriate, including parking and amenity space.

**Criterion 5.3** The county council is concerned that this criteria is too restrictive and fails to recognise that there may be circumstances where change of use to other types of residential use is acceptable on the upper floors within the plan area. Furthermore, when read in conjunction with the policies set out in the economy chapter the draft plan fails to recognise the contribution that residential development, particularly on upper floors can make to town centres in the context of paragraph 23 of NPPF. If this is not the intention of the plan then further clarity is required.

### **Policy D6: Design of new and renovated housing to the highest standards**

**Criterion D6.1** The county council considers that criterion D6.1 would benefit from further clarification as to what represents high quality design.

At **4.170** the county council advises that the text is out of date. Building for Life refers to all buildings, not just housing. There are now 12 tests and a traffic light scoring system has now been adopted.

## **THEME 5: A CITY WITH A MODERN AND SUSTAINABLE TRANSPORT INFRASTRUCTURE**

The county council has previously provided comments upon earlier iterations of the Durham City Neighbourhood Plan (DCNP) which have not yet been addressed. The Neighbourhood Plan Forum are again invited to reconsider the comments previously provided.

In overall terms, for its four transport policies the transport chapter contains a significant amount of detailed context and justification drawing from a number of sources but specifically the emerging draft Durham City Sustainable Transport Strategy (DCSTS) which is yet to be finalised by the county council. This repetition of existing and emerging policy adds to its length. It also refers and addresses a range of issues and transport policy matters which are either already addressed elsewhere

in existing policy documents, or will be subject to review through normal policy development processes in documents prepared by the county council and the Local Transport Body. Reference is also made to matters outside of the geographical scope of the plan area and matters within the plan area which will be addressed by other processes and which are outside the remit of the DCNP.

As a general principle it is also worth highlighting that within the plan area that a neighbourhood plan may deal with transport insofar as it relates to new development. It should not deal with things like traffic management of existing networks, unless such management would be necessary to allow development to be approved.

The chapter also contains specific views on a number of matters which are in conflict with the county council's existing views and emerging policy/strategy approach of the Council. There are also concerns that elements of the policy approach proposed are overly onerous, unworkable and non-fundable. A lot of content within the of the chapter repeats content from the National Planning Policy Framework or the DCSTS. The county council questions the need about the need for such repetition.

Where the DCNP policy differs from the county council's stance on transport matters, it is usually because it is being very prescriptive about higher standards i.e. cycling design, 20mph zones or less residential parking in the CPZ (controlled parking zone). Whilst these higher standards are well intended matters such as 20mph zones are not an issue for a development plan and are subject to a separate process. The other standards pose questions over the deliverability and effectiveness of the DCNP in these respects. Furthermore, the differential gives rise for the potential for these standards to be superseded by the forthcoming County Durham Plan and other emerging documents therefore rendering the DCNP time limited in these respects.

## **Objectives**

The county council is satisfied that the objectives of this section of the DCNP are broadly the same as what is in the existing Local Transport Plan, the saved policies of the City of Durham Local Plan and the draft DC STS. For example, the Local Plan contains a range of saved policies including those relating to traffic generation/highway safety and amenity (T1); road proposals (T2); the route and design of new road proposals (T4); public transport (T5); traffic management (T8); parking (T10), parking in the city centre (T11)(T12)(T13); taxi ranks (T18); cycle routes (T19); cycle facilities (T20); and walker's needs (T21). Similarly, the DCNP encourages walking, cycling, public transport as well as the use of electric vehicles and cleaner, fuel-efficient cars among those who still need to use cars for their daily travel. However, unlike the DCSTS, the DCNP objectives ignore economic growth and access to education and training (despite it forming part of the DCNP vision).

## **Context** (including paragraphs 4.174)

The county council notes that these paragraphs draw heavily upon the draft DCSTS which has yet to be finalised by the county council. It is also noted that it refers to a number of matters outside the jurisdiction of the DCNP, and inappropriately provide the views of the Forum on matters which are addressed within the adopted Local Plan (i.e. the Northern Relief Road or will be addressed by future planning applications i.e. the re-siting and redevelopment of Durham Bus Station). Unless it can be demonstrated that these paragraphs properly and directly relate and provide the



reasoned justification for the four proposed transport policies the inclusion of these paragraphs should be reconsidered or at the very least moderated. For example, the DCNP is correct in that *“the building relief roads is beyond the remit of Our Neighbourhood Plan as their proposed locations fall outside Our Neighbourhood”*, however, it is unnecessary for DCNP to provide a view on such a matter i.e. *“our Neighbourhood plan considers it unwise to invest heavily in constructing in roads....”*.

A misunderstanding which the county council has identified in the section summarising the DC STS is that the DCNP makes reference to ‘relief roads’ in the STS. The draft DC STS only makes reference to the Northern Relief Road (i.e. only one relief road not two). This needs to be addressed in the interests of accuracy. The background text on states that *“with traffic volumes over the Millburngate Bridge in decline over the last sixteen years ....”* This is not accurate, although levels did fall during the recession the DCNP needs evidence to justify this statement through traffic counts or the text should be amended.

The county council disagrees with the conclusion in the walking and cycling section. Although walking and cycling at 35% should be a priority, it is this very high proportion and the scale of the City that results in smaller than expected number of people cycling.

The text relating to the proposed bus station does not relate to the scope of the DCNP and sets out an individual groups views on a matter which will be considered through other planning processes. The text relating to the operation of public transport services and existing infrastructure is also an individual groups views and is not necessary. The DC STS does indeed highlight the amount of free parking at major employment sites, however, the majority of this parking is outside of the plan area i.e. at Belmont and at Newton Hall. The text relating to the management of car parking is not appropriate.

**At 4.5.3** the inclusion of additional justification over and above that which set out below each policy is questioned. In relation to paragraph 4.177 the county council agrees with DCNP in respect of the statement, that *“there is a limit to what our Neighbourhood Plan can achieve with respect to transport”*. It is considered that the justification of this chapter be reconsidered taking this into account after due reflection of the role of the county council in this regard. Specifically in regard to paragraph 4.186 the list of City of Durham Local Plan policies which are potentially relevant the list of relevant saved City of Durham Local Plan policies are incomplete.

## **Policy T1: Accessibility of Proposed Developments**

The numbering of the policy criteria should be reconsidered for sake of clarity. The county council understands the DCNP aspirations for a transport policy upon accessibility. However, the accessibility of proposed developments and transport assessments, statements and travel plans are considered by the county council to be strategic issues. The inclusion of a policy on these matters are therefore questioned.

**Criterion T1.1.** It is considered that the majority of development will only be assessed against criteria T1.1. In relation to (T1.1 1) it is considered that this criteria is not sufficiently clear in its meaning, for example it is unclear as to what is meant by infrastructure and what is meant by favours. For example is a new access onto a public

highway considered to be infrastructure or does infrastructure mean for example a new building?

**Criterion T1.1 2** The necessity of this criteria is questioned given that all new buildings will be required to meet established Building Regulations standards. It is noted that the reasoned justification provides no explanation of these matters.

**Criterion T1.2 and T1.3.** It is considered that the policy and supporting text of the DCNP is not the appropriate place for addressing Transport Statements and Transport Assessment and or Travel Plans. In this regard there is already significant guidance on transport assessments and statements within the Planning Practice Guide. However, in line with the PPG if this policy is to be retained in some form it is considered that discussions are required to agree what evaluation is needed for both Transport Assessments and Statements.

**Criterion T1.4** This criteria states, *“provide high quality routes which prioritise foot and cycle traffic within the site, are direct and continuous and segregated from other road users, directly linked to external foot and cycle networks”*. This criteria appears to give equal weight to walking and cycling and should be reconsidered. It is considered to prescriptive to insist on continuous and segregated cycle routes in all larger developments. This could lead to overly engineered designs that is inefficient in terms of space and costs. It may not be possible to link with external foot and cycle networks if such routes are not already present.

The consistency of this policy with paragraph 32 of the NPPF is questioned. Paragraph 32 is clear that *“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”*.

With respect to the supporting text The Active Travel (Wales) guidance has not been adopted by the county council. Rather, it is used as best practice guidance as part of auditing work on existing routes. There is no justification as to why a developer should be required to assess the quality of existing publically maintained walking and cycling routes to a development site (paragraph 4.189) including assessment of routes outside of the NP area (paragraph 4.190).

In relation to offsite improvements (paragraph 4.192) it is considered that the issue of how s106 money is to be used is the role of a local authority.

In relation to map 12 Map of Cycling Issues and paragraph 4.196, this is considered unnecessary, as referred to within the document through the DCSTS, the County Durham Plan and the Local Cycling and Waking Investment Plan work is being undertaken on this issue.

## **Policy T2: Designing for Sustainable Transport**

The aspiration for new residential road and streets to be designed to reflect the principles set out in T2.2 is understood and accepted and reflect best practice.

**Criterion T2.1** and paragraph 4.197 the Active Travel (Wales) guidance has not been adopted by the County council. Rather, it is used as best practice guidance as part of auditing work on existing routes.

Where new development is delivered this would have to be done in agreement with the county council who would have to maintain the infrastructure in perpetuity. Such agreement has not been sought.

**Criterion T2.2.4** *“Provision for car parking within the curtilage of each property or within a nearby neighbourhood parking area. Where on-street parking is necessary, it should be provided in designated bays.....”* taken with the following policy of only reducing parking standards when *“it can be demonstrated that there will be no adverse impact on existing car parking users in the vicinity”* provides a policy which is too aggressive against non-car developments. It appears to give the message that sustainability is the predominant feature in transport unless it can impact on the parking of existing residents.

### **Policy T3: Residential Car Parking in the Controlled Parking Zone (CPZ)**

This policy relates to an aspect that the county council is seeking to cover. Furthermore the county council is concerned that the approach in the DCNP does not align with this. The policy should be revised in light of the following comments.

This policy assumes developers will want to provide less (not more) car parking in the CPZ. It over-complicates the issue of providing less parking in the CPZ. If anything, to accord with strategic direction of travel this policy should have the intention of making it easier for developers wanting to provide less parking in the CPZ. In practice, the county council will be seeking developments to provide no more than 1 space per unit in the CPZ as it would class the CPZ as an accessible town centre location.

The county council would not necessarily issue new development parking permits unless it felt there was the capacity in the appropriate streets. This is backed up by the Councils Parking Service Manual which states: *'Please note, due to the historic nature of the streets within the CPZ the supply of on street parking space is limited in some areas. We are therefore unable to provide resident permits for occupiers of new developments/conversions after 2000. Before moving to a new development/converted property please ensure that the parking provision available to you is adequate for your needs.'*

Therefore, then danger of over-provision of parking spaces in the CPZ is very low as it stands currently. Making it more onerous for developers to provide for less parking does not appear to be the logical approach.

The suggestion that any non-car development must be within 800m of a pharmacy (criteria 4) would preclude development of student residencies next to the main university sites.

### **Policy T4: Residential Cycle Parking**

The county council is concerned that the requirements of this policy seem excessive. Any deviation from the county council's adopted standards needs to be fully justified. It is unclear what evidence exists to demonstrate that two covered secure cycle

parking spaces/equivalent space for other mobility aids should be provided per residential dwelling. The county council is seeking to revise these guidelines shortly and there will be an opportunity to comment on this in due course.

Whilst its aims well meaning, the policy is very prescriptive in its requirements, cycles/mobility aids are commonly stored with garages, sheds and indeed within the dwelling house or its curtilage. It is also considered that it is not appropriate to be so prescriptive, step free access may not be appropriate or possible on some development sites and the proposed storage space at the front of a dwelling is unlikely to be acceptable in design terms, particularly within the Conservation Area, and may increase the occurrence of crime. However, it is agreed that there may be some merit in PBSA or retirement accommodation for the elderly incorporating appropriate storage space given that space is a premium within individual accommodation. Should this policy be retained in its current format then this issue needs to be fully justified.

## **Theme 6: A city with an enriched community life**

The county council has previously provided comments upon earlier iterations of the Durham City Neighbourhood Plan (DCNP) which have not yet been addressed. The Neighbourhood Plan Forum are again invited to reconsider the comments previously provided.

### **Policy C1: Community Arts Facilities**

The county council notes that the plan includes text which relates to specific site proposals which are not contained within a policy and that it is stated that the Forum is at the first stage of identifying buildings. If it is the intention to identify specific land for this use then this should have been included within a policy in this version of the plan for consultation. Alternatively, if it was not possible to identify a site at this stage a full scope of criteria for judging the suitability of a site should have been included within the policy. The council is concerned that the policy as drafted does neither.

Furthermore, the county council considers that this policy would benefit from being reworded. The term 'and should be accessible' is superfluous as the policy is written at present as a development that relates well to the modes of transport referred to would by definition be accessible.

### **Policy C2: Information Hub**

It is considered that there needs to be more of a reference to Visit County Durham throughout this section acknowledging that they are the destination management organisation / official tourism body for Durham who is responsible for coordination of the tourism sector and they advise providers of attractions, services and events on how to set up information services.

The county council is very concerned that this policy and supporting text has been drafted with insufficient understanding of the work of Visit County Durham. What is described below would be expensive to set up and very costly to maintain. This puts into question the deliverability of the proposal.

It is also extremely concerning that the proposal for an information hub will replicate their function and also undo much of Visit Durham's coordination of the sector that has taken place over the last 11 years. This duplication of current work is likely to result in confusion and inconsistent messaging for visitors. If an information hub was to be set up then it should be one that is joint managed by Visit County Durham and a body that provides similar services to residents.

The county council strongly opposes the branding 'Love Durham' as it has invested heavily in the place brand and an information hub would need to reflect this.

The county council wishes to clarify that The Pointers are a voluntary run service, if they were to take a more active role in the provision of visitor information especially for areas outside of the city they would need to be professionally trained to do so - Visit County Durham have advised that they could support with this.

Notwithstanding the above, if this policy is to be retained then the county council considers that this policy would benefit from being reworded. At present this policy fails to include an appropriate scope of criteria against which the acceptability of a proposal could be assessed. Furthermore the term 'and should be accessible' is superfluous as the policy is written at present as a development that relates well to the modes of transport referred to would by definition be accessible.

### **Policy C3: Provision of new community facilities**

The county council strongly considers that the uses contained within this policy should be an exhaustive list otherwise it presents uncertainty over the scope of uses. It is suggested that reference is made to the appropriate Use Classes set out in the Use Classes Order.

**Criterion 1** this is not considered appropriate as it is a policy consideration in its own right which is already clearly dealt with in NPPF.

**Criterion 2** as worded could preclude a proposal that relates well to a residential area that is not currently served by local facilities.

**Criterion 3** the term 'wherever possible' weakens the application of this criterion.

**Criterion 6** reference to parking and servicing are important considerations which are absent from the policy.

### **Policy C4: Protection of an existing community facility**

The county council considers that in the interests of clarity the approach of cross referencing in this policy should be avoided. The scope of uses to which these policies relate should be aligned to the use Classes Order.

**Criterion 3** The county council considers that it is unclear as to whether criterion 3 is applicable to either scenario set out in criterion 1 and 2. The policy should be amended to provide the necessary clarity.

### **Policy C5: Protection of urban open spaces**

The county council has noted that the threshold contained within this policy is inconsistent with that cited elsewhere in the draft plan. Furthermore the policy

wording suggests that only criteria set out within that policy needs to be adhered to for a scheme to be acceptable. In the interests of clarity the policy should be reworded to replace the phrases 'will be supported if' with 'should

The policy intention at C5.1 is at odds with the title in that it relates to the provision of open space as opposed to protection of such space and is considered to overlap with Policy G1 which poses issues in the application of the policies in question.

**Criterion C5.1.3** it is an unreasonable requirement for developers to address existing short falls in provision. Such a requirement should only relate to the requirements of the scheme in question.

#### **Policy C6: Health care and social care facilities**

The county council considers that as nursing homes and care homes have differing considerations to health centres and surgeries it would be more appropriate for them to be considered in another housing related policy.

**Criterion 1** this is not considered appropriate as it is a policy consideration in its own right which is already clearly dealt with in NPPF.

**Criterion 7** it is considered that levels of amenity and open space should be good, not 'satisfactory'.

**Criterion 4 & 8** could be refined into one criterion to avoid unnecessary repetition within the policy.

END



