

Durham County Local Plan Proposed Main Modifications

Responses on behalf of the City of Durham Parish Council

MAIN MODIFICATION	COMMENTS BY THE CITY OF DURHAM PARISH COUNCIL
MM8	The City of Durham Parish Council welcomes the windfall allowance being increased from 80 to 100 as this more accurately reflects past rates and reasonable expectations.
MM18	The City of Durham Parish Council supports this Main Modification. It is essential that any non-Class B uses, while providing for the immediate needs of the people who work at the site, does not attract others on to the site to the detriment of the nearby town centres. In addition, by restricting uses to those necessary, more land will be available for the Class B uses and it will not be necessary to seek further land beyond the site.
MM19	The City of Durham Parish Council supports Main Modification 19. With 453 listed buildings in the Parish, including of course the Durham Castle and Cathedral World Heritage Site, and many more non-designated heritage assets, the potential impact of development is of paramount importance to the Parish Council. We therefore welcome the use of heritage impact assessments to guide the determination of planning applications where appropriate.
MM20	The City of Durham Parish Council supports this Main Modification, which builds on MM18. It is essential that any non-Class B uses, while providing for the immediate needs of the people who work at the site, does not attract others on to the site to the detriment of the nearby town centres. We note a transcription error: <i>In come instances</i> should be <i>In some instances</i> , as it is in the Plan itself.
MM23	The City of Durham Parish Council supports the intention to ensure that Policy 3 is effective in securing the provision of a readily recognisable and permanent Green Belt boundary to the Aykley Heads site. It would be consistent and logical to have the same provisions in the other two cases of removal of land from the Green Belt, namely Sniperley Park and Sherburn Road, but the Parish Council recognises that these sites are in adjacent Parish Council jurisdictions.
MM24	The City of Durham Parish Council supports MM24, which is in accordance with comments we made earlier in the Examination.
MM25	The City of Durham Parish Council supports Main Modification 25. The protection of the Durham Castle and Cathedral World Heritage Site is of paramount importance to the Parish Council. We therefore welcome the heightened protection that this main modification gives, by the addition of the word <i>special</i> to the original text.
MM27	The City of Durham Parish Council welcomes this Main Modification, in particular its acceptance that major investors and prestige businesses are not exempt from measures to promote walking, cycling and public transport use and strictly limit the provision of car parking spaces.
MM29	The City of Durham Parish Council supports Main Modification 29. The protection of the Durham Castle and Cathedral World Heritage Site is of paramount importance to the Parish Council. We therefore welcome the heightened protection that this main modification gives, elaborating as it does on the wording of Policy 3. These are, rightly, very high tests and they are needed to protect this unique asset.
MM30	The City of Durham Parish Council welcomes the proposed Modification to Paragraph 4.58. The County Council should incorporate into paragraph 4.58 as modified the reasoning in the Inspector's Action Point 12 as follows <i>in bold italics</i> :

	<p>4.58 Aykley Heads' location in close proximity to the city's railway and bus stations and on key bus routes, including those used for the Park and Ride, provides excellent access to public transport. New walking and cycle routes will connect the site to surrounding housing, Wharton Park, the railway station and the city centre. In order to ensure that the traffic associated with the new businesses does not have unacceptable impacts on the existing road network lead to an increase in traffic on the local road network we will endeavour to reduce parking provision to the absolute minimum required to serve the proposed development and as a maximum will limit the number of spaces to no more than the current provision of 1,281 spaces.</p>
<p>MM31</p>	<p>The City of Durham Parish Council greatly welcomes this Modification as it now aligns the supporting text with the capacity of the site designated in Policy 3 and removes the implied intention of the County Council in future to extend the Aykley Heads Strategic Employment Site into the Green Belt.</p> <p>The reference in the Foreword to 6,000 jobs on this site needs to be changed to 4,000 jobs; this needs to be effected by the Council by inclusion in its proposed Minor Modification.</p>
<p>MM47</p>	<p>The City of Durham Parish Council supports Main Modification 47, which relates to the development at Sniperley Park. The protection of the Durham Castle and Cathedral World Heritage Site is of paramount importance to the Parish Council. We therefore welcome the rewriting of Policy 5 to change the neutral wording to a recognition of the unique value of the WHS which requires special protection.</p>
<p>MM50</p>	<p>The City of Durham Parish Council greatly welcomes the removal of the proposed relief roads, but we strongly disagree with the approach now proposed, that of various un-integrated measures aimed at increasing overall car traffic flow. Instead, it is vital that actions and projects are designed to deliver the long term objectives of a holistic Transport Masterplan for Durham City.</p> <p>The existing Durham City Sustainable Transport Delivery Plan has many welcome components but is positioned as being dependent on the proposed Northern Relief Road that has now been deleted from the County Durham Local Plan. Reference within MM50 to the Durham City Sustainable Transport Delivery Plan therefore needs to be deleted.</p> <p>MM50 is in any case deficient as it has lost the text identifying Section 106 as the source for the required contribution to the implementation of the Durham City Sustainable Transport Delivery Plan. Section 106 contributions to the implementation of a Transport Masterplan for Durham City should be required from the developers of Sniperley Park if that scheme is retained in the County Plan.</p> <p>We do not agree that the Sniperley Masterplan proposed in Policy 5 should go beyond the Sniperley roundabout; it should not attempt to include capacity improvements along the A167 corridor from Neville's Cross to Sniperley as this is merely one element of addressing a truly sustainable transport masterplan.</p> <p>We therefore support the deletion of proposed criterion l and propose a revised main modification to criterion k, as follows:</p> <p><u>k. To ensure that there are no unacceptable impacts on highway safety or severe residual cumulative impacts on the wider road network (in terms of capacity and congestion), full details of all necessary on- and off-site highway works and improvements, together with a timetable for their implementation, shall be agreed with the Council as part of the comprehensive masterplan and any future planning applications for the Sniperley Park site. These works and improvements shall include, but not be limited to: upgrade and realign Trout's Lane and Potterhouse</u></p>

	<p>Lane from the A691 to Pity Me Roundabout, improving access into the site and forming part of the Northern Relief Road, with</p> <ul style="list-style-type: none"> • a new roundabout provided at the junction of Trout's Lane, Potterhouse Lane and on the B6532; and forming the northern boundary of the development; • a new link between the B6532 and the A167 park and ride roundabout.
MM52	<p>The City of Durham Parish Council supports Main Modification 52, which relates to the proposed 'sustainable urban extension' at Sherburn Road. The protection of the Durham Castle and Cathedral World Heritage Site is of paramount importance to the Parish Council. There are views to and from the WHS from the road leading to Old Durham. We therefore welcome the rewriting of Policy 59(o) to add the desirable aim of totally avoiding any adverse impacts on the inner setting of the World Heritage Site</p>
MM89	<p>The City of Durham Parish Council welcomes this Modification to introduce a new paragraph specifying that 66% of dwellings should be built to M4 (2) accessible and adaptable standard. Whether the paragraph fits best at 5.107 will become clear in compiling the final County Durham Local Plan document.</p>
MM93	<p>The City of Durham Parish Council strongly supports this Modification which restores the approach adopted in the Interim Policy on Student Accommodation. This main modification would ensure consideration is given to the amount of student accommodation within the vicinity of an application site and therefore ensures the policy considers the impacts of an extension on the residential amenity of nearby properties and the character of the area.</p>
MM95	<p>The City of Durham Parish Council supports this Modification which restores the approach adopted in the Interim Policy on Student Accommodation. This main modification would ensure consideration is given to the amount of student accommodation within the vicinity of an application site and therefore ensures the policy considers the impacts of an extension on the residential amenity of nearby properties and the character of the area. However, this support should not be construed as support for MM96.</p>
MM96	<p>The City of Durham Parish Council and City of Durham Trust both agree on the importance of stopping the loss of family homes in the City. We have consulted each other extensively on the most appropriate wording and have agreed this common representation.</p> <p>We appreciate that Durham County Council is proposing to set a very high bar before any consideration can be given to making exceptions to Policy 16.3. This is a welcome initiative to address the problems arising from a number of specific Appeal decisions that turned on the lack of definition of a threshold for exceptions in Submitted Policy 16.3.</p> <p>The Parish Council and the Trust note that the County Council is not proposing any Main Modifications to Paragraph 5.160. As it stands Paragraph 5.160 makes the case for there occasionally being circumstances where an exception could be made to the main terms of Policy 16.3. The Parish Council and the Trust believe that, fundamentally, Paragraph 5.160 sets out the correct approach of acknowledging possible circumstances where an exception to policy could be justified. By their very nature, exceptions really ought not to be embedded into a policy. Our strong preference, therefore, is that the exceptions part of Modified Policy 16.3 i.e. the text beginning "However..." and ending in "area" is removed altogether.</p> <p>This is on the grounds that MM96 as drafted could allow landlords and developers to push through to 100%. Further, they will push for 'just one more' if the threshold of 90% hasn't quite been reached. The proposed figure of 90% could be eroded</p>

downwards to 80% or 70% on exactly the arguments put forward in Main Modification 96. The Parish Council's and the Trust's primary position is that MM96 should be struck out (which makes MM95 unnecessary). However, if that course of action is not taken, then the Parish Council and the Trust would wish to see some amendments under MM96 that firm up the considerations that need to be applied. Our reading of MM96, in the context of what was originally proposed, is that revised criterion (h) only comes into play when the concentration exceeds 90%, and in that case further criteria also have to be met. The intention is surely that there is no automatic right to create or extend an HMO once the percentage exceeds 90%; applications will only be considered at that point for an exception to be made if they meet specified conditions. This may not be as clear when the revised text is read on its own so we consider that the following text would clarify this part of the policy without changing what is intended:

“However, new build Houses in Multiple Occupation, extensions that result in specified or potential additional bedrooms or a change of use to a House in Multiple Occupation would not be resisted in the following circumstance: only be entertained if the applicant can satisfy all of the following:

(h) Where that all the foregoing criteria (d) to (g) are met and where:

(i) an area already has such a high concentration in excess of 90% of council tax exempt properties (Class N),

(ii) that and this is having an unreasonable impact on current occupiers,

(iii) and that the conversion of remaining C3 dwellings will not cause further detrimental harm to the residential amenity of surrounding occupants; or

(i) Where an existing high proportion of residential properties within the 100 metres are exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.

The exemption set out at criterion (h) will not be engaged in these cases unless it can be shown that it would be engaged without the presence of the PBSA within 100 metres.”

This revised wording, along with supporting text as suggested below, would make the policy clearly written and unambiguous, so it would be evident how a decision maker should react to development proposals, as required by the NPPF paragraph 16(c).

However, we don't find criterion (i) clear and unambiguous; in fact we don't understand it. We feel a decision-maker could have a similar difficulty, and consequently the criterion fails the requirement in NPPF paragraph 16(d) that policies should be clearly written and unambiguous. If criterion (i) is to be retained / revised in some form, the phrase high proportion should be replaced by in excess of 90%.

The Parish Council and the Trust consider that further guidance is needed in supporting text to deal with the way PBSAs can have a very high number of Class N exemptions in a single place. The Appendix [at the end of this document for technical reasons] gives some examples of how this can result in surrounding properties being in an area with more than 90% council tax exempt properties, but this may not cause the unreasonable impact that the policy describes. The suggested supporting text is in a new paragraph 5.160(e) below.

“5.160(a) The council would like the areas with high concentrations of HMOs to become more mixed. However, there may be some cases where localised communities are already so imbalanced that the policy objective of protecting a balance is unlikely to be achieved. In these cases owners of Class C3 dwellings

may find difficulty in finding a purchaser for continued Class C3 use and may therefore wish to change to Class C4/HMO use. In considering whether to make an exception in such cases the council will have regard to:

- whether the proportion of existing Class N council tax exempt properties within 100 metres of the application site is in excess of 90% and their impact upon the character of the area in terms of whether such a concentration might be likely to affect adversely the amenity of normal family life; or
- there is documented evidence of unsuccessful active marketing of the property as a Class C3 dwelling, with at least one recognised estate agent at local market levels, over a continuous period of at least 12 months; or
- other circumstances where the applicant can provide evidence which confirms that the policy restriction is causing severe personal hardship.

5.160(b) The threshold for considering exceptions is set at percentages in excess of 90% with conditions to ensure that remaining residents are protected. Even if the percentage of properties within 100 metres exceeds 90% a number of non-HMO residential properties remain and, as such, there is merit in seeking to retain C3 properties in the area for long term council tax paying residents, who provide greater social investment in the area helping to create, strong, vibrant and healthy communities as required by the NPPF. There is always potential for improvement to and a re-balancing of the housing mix, but this can only be realised through stringent protection of those remaining C3 properties in the area from being lost to HMO development. Accordingly, there is no automatic right to create or extend an HMO once the percentage exceeds 90%; applications will only be considered at that point for an exception to be made if they meet the specified conditions.

5.160(c) Residential amenity is a crucial consideration in relation to HMOs. Such accommodation is heavily associated with typically younger tenants, higher density occupation and activities that are less structured than that of typical families and working individuals. This creates noise and disturbance that impacts on the quality of life of neighbouring residents. Furthermore, planning conditions cannot address other identified problems of unoccupied properties out of term time, or negative impacts on community spirit amongst remaining permanent residents, particularly given the transience of the student population.

5.160(d) It is unreasonable to assume that these impacts are not felt by permanent residents when the percentage of HMOs in an area is over 90%. Indeed, routinely dismissing areas where even just 1 in 10 dwellings are occupied by full time residents would be a disservice to these residents and would have a negative transformative effect across Durham City, where some pockets of community still remain established, despite being in the minority, but would become particularly vulnerable to continued erosion of their community through ongoing loss of C3 homes. Hence it is essential that protections by way of criteria are applied when exceptions to the 10% threshold in Policy 16.3 are being considered.

5.160(e) The individual student flats and studio apartments in PBSAs are usually registered as separate properties for council tax purposes, and this results in a very large number, sometimes many hundreds, of students claiming Class N exemption from council tax in the same location. This will distort the percentage of exemptions in other properties within 100 metres of the PBSA, and

	<p><u>sometimes take it over 90%. The exemption set out at criterion (h) will not be engaged in these cases unless it can be shown that it would be engaged without the presence of the PBSA within 100 metres.”</u></p>
MM97	The City of Durham Parish Council strongly supports these new paragraphs explaining very clearly why HMO extensions need to be considered as part of Policy 16.3.
MM98	<p>The City of Parish Council considers that properties that have not yet been occupied should also be excluded from the calculation when assessing the percentage of student exempt properties, for two reasons:</p> <ul style="list-style-type: none"> • As the two examples given below show, it can be many months if not years before a permission is implemented. • Until a property is actually occupied, in most cases it cannot be inferred whether the first occupants will be students or not. <p>We suggest that the point at which a property enters the calculation would be when it becomes liable for Council Tax, having been occupied.</p> <p>Two recent planning applications illustrate the issues:</p> <p>DM/20/01018/FPA: The Charles Church development at The Sands, now called Edmunds Vale, lies within 100 metres of this application for 1 Wearside Drive. There are 35 dwellings here, of which 22 are still listed as being for sale. When added to the 35 long-standing dwellings also within 100 metres of 1 Wearside Drive, the percentage of student exemptions falls below 10% even taking into account two recent permissions not yet implemented.</p> <p>DM/20/00911/FPA: Somewhat surprisingly the percentage of student exemptions within 100 metres of this conversion of the upper storeys of 9/9a Silver Street was only 75%. The reason appears to be that the studio flats above the old Post Office, almost opposite, have not yet been occupied. They are advertised as student lets. The consequence is that we could argue that the exemption where almost all properties on the area are occupied by students does not apply.</p> <p>It should be remembered that the calculation is of the percentage of properties where a Class N exemption applies. Some of these could well be in Use Class C3, if they are flats occupied by one or two students sharing. There have been a number of cases recently where developers, refused permission for an HMO or a group of HMOs, have brought forward plans for the same site comprising studio flats with essentially the same number of bedrooms as the unsuccessful application. These include a number of permissions granted well over a year ago, for example Holly Street and 24 The Avenue.</p>
MM103	The City of Durham Parish Council supports these consequential deletions of text supporting Policy 21 that Main Modification 102 deletes.
MM106	<p>The Parish Council generally supports Main Modification 106, but feels that the second bullet point needs to be made tougher for these reasons:</p> <ol style="list-style-type: none"> 1. Pavement parking does not only cause harm to amenity. For wheelchair users, and parents and carers with buggies and pushchairs, it can be an obstruction causing them to divert into the road in order to progress, with an obvious extra danger. 2. In cases where the bullet point says that parking should be avoided, physical means, e.g bollards, should be used to prevent pavement parking, and

	<p>double-yellow lines and the resourcing of enforcement measures should be used to discourage on-street parking.</p> <p>We have seen the wording proposed by the City of Durham Trust and support it. To it we would add the following in order to address our point (2):</p> <p><u>Where practical, physical means should be used to prevent pavement parking.</u></p> <p>The Parish Council supports the intention to develop a Parking and Accessibility Supplementary Planning Document and would welcome the opportunity to contribute suggestions at an early stage in its development.</p>
MM109	The City of Durham Parish Council strongly supports this main modification, which implements the changes necessary consequent on the removal of the Northern and Western Relief Roads from the Plan.
MM110	The City of Durham Parish Council warmly welcomes MM110 for deleting virtually all of the texts about the Western and Northern Relief Roads. However, paragraph 5.238 should also be deleted as it is describing issues in terms that sought to justify the building of the Western and Northern Relief Roads. Instead, reference under the heading A167 Congestion could be to acknowledge the need for the Sniperley Park Masterplan to address issues in that location and that congestion issues on the A167 will be included along with traffic and transport issues in a comprehensive Transport Masterplan for Durham City.
MM111	The City of Durham Parish Council supports the proposed deletions of indicators and targets that related to the two relief roads that are now deleted. Proposed Target 5 is supported. Indicator 5 should be modified simply to state: <u>5. Level of traffic in Durham City.</u>
MM124	The City of Durham Parish Council very much regrets the wording of this Main Modification and feels that the proposed phrase “where it can be demonstrated that this is not appropriate, practical or economically viable, developers will be encouraged to provide appropriate infrastructure to enable future installation” may actually be viewed as an invitation by developers to demonstrate that high speed broadband is not possible. Of course, in certain areas the provision of high speed broadband is not always possible but this should only be viewed as an exceptional circumstance. It is essential that the County Council requires all new developments to be served by a high speed broadband connection and that evidence in exceptional cases where this is not possible must be clearly demonstrated to the County Council to show that this is the case.
MM127	The City of Durham Parish Council considers that the delay proposed in this MM should be changed from one year to six months. This is for two reasons. First, the Nationally Described Space Standards were published on 27 March 2015 and amended on 19 May 2016. Many local authorities have already implemented them, and the Council's Residential Internal Space Standards evidence base clearly articulates the need for applying NDSS in County Durham. These standards therefore should not have come as a surprise, certainly not to mass market volume builders. Secondly, the delay caused by the coronavirus pandemic has increased the time between the publication of the main modifications and the eventual adoption of the Plan but planning for new building will have been able to continue. This delay should be discounted against the one year originally proposed in the main modification.
MM134	The City of Durham Parish Council considers that the delay proposed in this MM should be changed from one year to six months. This is for two reasons.

	<p>First, the Nationally Described Space Standards were published on 27 March 2015 and amended on 19 May 2016. Many local authorities have already implemented them, and the Council's Residential Internal Space Standards evidence base clearly articulates the need for applying NDSS in County Durham. These standards therefore should not have come as a surprise, certainly not to mass market volume builders. Secondly, the delay caused by the coronavirus pandemic has increased the time between the publication of the main modifications and the eventual adoption of the Plan but planning for new building will have been able to continue. This delay should be discounted against the one year originally proposed in the main modification.</p>
MM135	<p>The City of Durham Parish Council suggests that Policy 31 as modified with the words “will be carefully considered” might give an impression that some proposals are not carefully considered. We suggest that the phrase “planning applications for A5 uses will <u>be carefully considered</u>” should be replaced with “planning applications for A5 uses will <u>be assessed against these criteria.</u>”</p>
MM136	<p>The City of Durham Parish Council supports this main modification, which clarifies which colleges would be covered by this policy, an issue raised by the Parish Council during the consultation.</p>
MM147	<p>The City of Durham Parish Council fully supports Main Modification 147, because we agree that the loss of hedges, or loss or damage to trees of high landscape, heritage, amenity or biodiversity value should be retained in every possible circumstance.</p>
MM149	<p>The City of Durham Parish Council raised the issue of the enlargement of the WHS during the consultation, and is pleased this main modification has come forward and naturally supports it.</p>
MM178	<p>The Parish Council supports this Main Modification, but feels that an extra entry is needed in the glossary for the term <i>Blue Infrastructure</i>. Somebody reading the Plan and coming across this term might turn to the Glossary to find out what it means, and might well not notice that this is included in the definition of <i>Green Infrastructure</i>. It needs its own definition.</p> <p>The wording in the entry for <i>Green Infrastructure</i> is fine, and we agree it should say that this encompasses Blue Infrastructure.</p>

Main Modification 96: Appendix

The developers of purpose built student accommodation (PBSA) register each unit in their developments with the Valuation Office Agency (VOA) as an individual dwelling and this leads to a very large number of properties that when occupied by students are exempt from Council Tax.

This is compounded because the PBSA location is recorded by the Ordnance Survey as a single point, and this location is used in the Council's GIS system. Consequently the number of exempt properties in a PBSA can swamp the surrounding area and take it over the 90% figure. The examples below illustrate this point. The property details are obtained via a search on the VOA website, see <http://cti.voa.gov.uk/cti/InitS.asp?lcn=0>

Duresme Court

Grid reference: 426141.94, 542012.14

Number of properties: 273, all band B

Other properties within 100m: George Street, Cross Valley Court, Ward Court, Monument Court

Neville House, Sheraton Park

Grid reference: 426383.00, 541675.00

Number of properties: 65, bands A-D

Other properties within 100m: Kirkwood Drive, Ellam Drive, Dalton Crescent, Clay Lane

Sheraton House, Sheraton Park

Grid reference: 426403.00, 541588.00

Number of properties: 39, bands A-D

Other properties within 100m: Kirkwood Drive, Ellam Drive, Dalton Crescent

New Kepier Court

Grid Reference: 427875.61, 542847.84

Number of Properties: 127, bands B-D

Other properties within 100m: Wear View, Kepier Terrace, Mayorswell Close, Hillcrest

The first three are shown on the map on the following page.

As an illustration of what can happen, there are eight properties in Cross Valley Court, a small development just to the north of Duresme Court. Six of them are within 100 metres of the centre point of Duresme Court, and much closer to its northern block. These six are within 100 metres of between 18 and 25 other properties which would mean that the total number of properties will be between 291 and 298 and if all the studios in Duresme Court are Class N exempted, the percentages will be in the range of 91.6% and 93.8%, even if all the other properties do not have students living in them.

100m round Duresme Court, Neville House and Sheraton House

