

## **DURHAM COUNTY COUNCIL**

### **AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 14 January 2020** at **1.00 pm**

#### **Present:**

**Councillor J Clark (Chair)**

#### **Members of the Committee:**

Councillors G Bleasdale, D Brown, I Cochrane, K Corrigan, B Coult, M Davinson, K Hawley, S Iveson, I Jewell (substitute for R Manchester), L Pounder (substitute for A Laing), J Robinson, J Shuttleworth, P Taylor and M Wilkes (substitute for D Freeman)

#### **1 Apologies for Absence**

Apologies for absence were received from Councillors D Freeman, A Laing and R Manchester.

#### **2 Substitute Members**

Councillor I Jewell substituted for Councillor R Manchester, Councillor L Pounder substituted for Councillor A Laing and Councillor M Wilkes substituted for Councillor D Freeman.

#### **3 Minutes**

The minutes of the meeting held on 10 December 2019 were confirmed as a correct record by the Committee and signed by the Chair.

#### **4 Declarations of Interest**

Councillor M Davinson declared an interest in Item 5e - DM/19/02546/FPA - Site of Former Gilesgate Comprehensive School, noting he was a Director of Chapter Homes Durham Limited and would therefore leave the meeting during the consideration of that application.

**5 Applications to be determined by the Area Planning Committee (Central and East)**

The Chair noted as the first two applications were adjacent properties, similar applications, and from the same applicant and therefore the Planning Officer would present both applications within one presentation. She added that registered speakers would be afforded the opportunity to speak on both applications, with an appropriate length of time given. The Chair noted that the Committee would need to make decisions on each application separately after consideration of the Officer's presentation, speakers' comments and debate by the Committee.

**a DM/19/03459/FPA - 17 Providence Row, Durham, DH1 1RS**

**b DM/19/03494/FPA - 18 Providence Row, Durham, DH1 1RS**

The Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning applications, copies of which had been circulated (for copy see file of minutes). Members noted that the written reports were supplemented by a visual presentation which included photographs of the sites.

The applications were for: 17 Providence Row - Demolition of existing rear extension and erection of part single-storey/part two-storey extension at rear and installation of dormer windows in roofspace also to rear to an existing small HMO (use class C4); and 18 Providence Row - Demolition of existing rear extension and erection of two-storey extension at rear and installation of dormer windows in roofspace also to rear to an existing small HMO (use class C4). It was explained both applications were recommended for approval subject to conditions as set out within the reports.

The Planning Officer, LM noted that the applications were not for change of use, the properties already being houses in multiple occupation (HMOs) prior to the Article 4 Direction, the applications were for extensions to the properties. She explained that there had been no objections to the applications from Durham Constabulary, Environmental Health, Design and Conservation, the Highways Section or the HMO Licensing Team, following discussions as regards the bedroom height of the proposed loft room for 17 Providence Row. It was added that the Highway Section noted the properties were within a controlled parking zone and no further parking permits would be issued.

In respect of public representations, the Planning Officer, LM noted objections to both applications from the City of Durham Parish Council and the City of Durham Trust, with their comments set out within the report and with a representative from the Parish Council being in attendance to speak to Committee.

The Planning Officer, LM noted the applications were considered in terms of the saved Local Plan Policies from the City of Durham Local Plan and the National Planning Policy Framework and the Interim Policy of Student Accommodation. She explained it was not felt the applications would have a detrimental impact upon the area or the street scene, did not represent a massive change to the current situation, and reiterated there were no objections from internal consultees. The Planning Officer, LM noted there was a slight conflict with the Interim Policy on Student Accommodation, however, the housing mix in the area would not be altered as the properties were already HMOs. She concluded by noting that on balance the applications were considered to be acceptable and therefore were recommended for approval, subject to the conditions as set out within the report.

The Chair thanked the Planning Officer, LM and asked Parish Councillor Grenville Holland to speak on behalf of the City of Durham Parish Council in objection to the applications.

Parish Councillor G Holland noted that the two applications were being discussed together and they were similar, involving adjacent properties and the same landlord, and the Parish Council's objections followed essentially identical paths. He explained that when urging that an application be refused, the Parish Council were always careful to make sure that the planning grounds for that request were both sound and valid. He added that yet, there was always the lingering threat of an Appeal and its consequences that was often aired and the Committee, understandably, erred on the side of caution. Parish Councillor G Holland noted that landlords and developers had very deep pockets and, however merited, would almost certainly call any refusal to Appeal believing that threat alone could normally win their day.

Parish Councillor G Holland explained that less than a month ago at the Court of Appeal, and with another Council faced with that very threat, Lord Justice Underhill commented as follows:

*"It is true that, in the real-world, councillors and officers are bound to be aware that a refusal of planning permission is likely to be appealed and that, win or lose, the process will be expensive in terms both of officer resources and legal costs incurred."*

Parish Councillor G Holland noted Lord Justice Underhill added:

*“But that is not the same as allowing the risk of costs associated with defending an adverse decision on appeal to influence them in the exercise of their planning judgement. That is not legitimate, ... and there is a risk of that occurring if officers in their advice express reference to the likely costs consequent on a refusal”.*

Parish Councillor G Holland noted that Members had all been there and their caution at the probable threat of an appeal, also raised by the Officers, had often conditioned their decision. He added that the Court of Appeal had now cautioned against such an approach to decision making.

In turning to the two applications on Providence Row, Parish Councillor G Holland explained that Durham City Parish Council objected to both of the applications because they contravened both national and local planning policies, as well as the County Council's own Interim Policy on HMOs.

Firstly, he noted that the importance of NPPF Paragraph 8b which described the key social objectives of the planning system as being to support strong, vibrant and healthy communities. He added that NPPF Paragraph 62 sets the objective of creating mixed and balanced communities; and NPPF Paragraph 192 was designed to create sustainable communities. Parish Councillor G Holland stated that none of those were mentioned in the Officer's report and that the Parish Council did not feel the extensions proposed in the two applications achieved the aim of fostering a balanced and mixed community.

Parish Councillor G Holland explained that secondly, the County Council's own carefully drafted Interim Policy, built on the foundations of the NPPF, was clear and was a material consideration, it stating:

*“In order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, applications for new build houses in Multiple Occupation (both C4 and sui generis), or extensions that result in additional bed spaces, ... will not be permitted if more than 10% of the total number of properties within 100 metres of the application site are already in use as HMOs or student accommodation exempt from council tax charges...”*

Parish Councillor G Holland referred to the Officer's report which stated within 100 metres of 17 Providence Row 37.3 percent of the properties were HMOs; whereas next door, at 18 Providence Row, the equivalent number was given as 48.7 percent.

He added that either way those numbers exceeded the 10 percent threshold and the applications should be refused because they were contrary to the Interim Policy and therefore the NPPF which underpins this Policy; and the attempt to arbitrarily undermine the threshold within Paragraph 45 of the Officer's report was unacceptable.

Parish Councillor G Holland noted that furthermore it was felt that Paragraph 42 in the Officer's report was misleading, while accepting that the proposed developments were contrary to the Interim Policy, the paragraph sought to sidestep the contravention by arguing that, although there was an increase in bedrooms, it did not involve the loss of a C3 property. He explained that the Interim Policy did not sanction that interpretation and it could not be set aside because it happened to be inconvenient. He added that the policy was about extensions that led to an increase in the number of students in a balanced community and not the number of bedrooms.

Parish Councillor G Holland referred to Paragraphs 43 and 44 of the report and noted that the Officer, yet again, trotted out an individual decision by a Planning Inspector relating to an application at 40 Hawthorn Terrace, a decision which was widely believed to be arbitrary and erroneous. He explained the Parish Council felt that those paragraphs introduced a covert threat that, if the Committee rejected the applications today, a similar decision at Appeal would revisit the Council. Parish Councillor G Holland asked therefore if he could refer back to the recent guidance from Lord Chief Justice Underhill:

*"That is not legitimate, .... and there is a risk of that occurring if officers in their advice express reference to the likely costs consequent on a refusal".*

Parish Councillor G Holland noted that this, in essence, was the advice the Committee was being given by the Officer in Paragraphs 43, 44 and 45 of the report. He added it was felt those paragraphs should be disregarded particularly because the deliberations of the Examination in Public were far from complete and the Interim Policy therefore remained material and relevant. He noted that indeed, the Inspector may choose to strengthen that Policy in his final determination later this year.

Parish Councillor G Holland explained that a third point the Parish Council noted was that Saved Policy H9 in the City of Durham Local Plan stated:

*"The sub-division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use will be permitted provided that:  
Adequate parking (in accordance with policy T10), privacy and amenity areas are provided or are already in existence; ...".*

Parish Councillor G Holland noted that condition within H9 was not mentioned in the Officer's report. He added there was no parking provision and therefore the applications failed to meet the requirements of Saved Policies H9 and T10 and should be refused.

In summary, Parish Councillor G Holland explained it was felt the applications failed the tests set out in the NPPF, the Council's own carefully drafted Interim Policy, Local Plan Policies H9 and T10, and in one property the room size was inadequate, although the Planning Officer, LM referred to the comments from internal Council Officers within her presentation in relation to this. For those reasons, the Parish Council believed both applications should be refused.

Parish Councillor G Holland noted that until decision makers used the planning policies that were available, policies designed to protect this city, and did so without fear or favour, then we would constantly be revisiting applications that were destined, little by little, to destroy any semblance of a balanced community, and, indeed, any pretence that such a balance could be achieved now or in the future.

The Chair thanked Parish Councillor G Holland and asked the Officers for any comments on the points raised.

The Principal Planning Officer, Alan Dobie noted that in reference to the comments relating to the Court of Appeal case, he did not accept that Officers either in these cases or any previous ones had explicitly attempted to persuade members to make decisions based on the potential award of costs. However, he felt Officers were obliged to advise members of relevant appeal decisions and to set out, within their reports and advice to Members, the relevant policies and potential implications, though ultimately the decision was for the Committee. In relation to the Interim Policy of Student Accommodation, he noted this had been covered previously at Committee, however, he would advise and reiterate that while Officers had tried to control extensions to HMOs via the policy, early decisions by Planning Inspectors had set out that in that respect that policy was in effect a moratorium on extensions and therefore was not in line with Saved Policy H9. The Principal Planning Officer noted that accordingly Officers had to revise their approach to such HMO applications. He explained that the Examination in Public of the County Durham Plan (CDP) would cover those issues and from a session in November 2019, the Inspector set an action point for the Council to consider modifying the policy in relation to HMOs and extensions and to take into account during the assessment of such applications the student HMOs near to an application site. He explained this was an issue being looked at by colleagues within the Policy Team and therefore would be something to be then considered during the consultation on the CDP, however, not given any weight at present.

The Principal Planning Officer noted the two percentages referred to within the reports relating to the student density in respect of the properties were each different and correct. In reference to comments that the applications were contrary to Saved Policy H9, he reiterated that the Highways Section had advised the applications were within a controlled parking zone and that they felt applications could not be refused on that reason.

The Chair asked if Parish Councillor G Holland could give further details as regards the case he referred to within his statement. The Solicitor – Planning and Development, Neil Carter noted that he would reiterate the comments of the Principal Planning Officer in terms of a duty to state policy advice and give details of previously determined appeals decisions to Committee, with the Committee to then decide upon the application, however if Parish Councillor G Holland could provide further details of the case he was referring to, then he would advise further. Councillor G Holland noted that he had not questioned the percentages relating to HMO density for each property, simply he had referred to each percentage separately within his statement.

The Chair thanked the Officers for their comments and asked the Committee for their comments and questions on the applications.

Councillor J Shuttleworth noted that it appeared to him as if the people of Durham City were sick of HMOs and Paragraph 3 of the reports stated conflict with the Interim Policy on Student Accommodation and asked if the applications could be refused on that basis. The Solicitor – Planning and Development noted while the applications were in conflict with the Interim Policy, the appeals decisions referred to had shown that the Interim Policy was not in line with Saved Local Plan Policy and therefore the applications should be determined against those Saved Local Plan Policies.

Councillor M Wilkes noted he too was sick of HMO applications coming to Committee and referred to the Applicant's Statement which explained the properties could revert back to family homes in the future, he added he did not see how this would be possible given the number of extensions proposed. Councillor M Wilkes referred to Saved Policy H13, relating to the amenity of residents. He noted that the extensions would take up the external amenity space linked to the properties and added that given the likely number of students in the property that there would be at least eight waste and recycling bins between the two properties. Given that, Councillor M Wilkes asked what amenity space would remain and what was considered reasonable in terms of such external amenity space. The Planning Officer, LM noted space left by the rear extensions to the properties, albeit with 17 Providence Row also having the proposed single storey extension in addition.

Councillor M Wilkes asked if that was effectively no change in terms of extension space for one property and a small change for the other property.

The Principal Planning Officer explained that he was not sure precisely, though the change was slight, adding there was not a measurable standard rather a judgement was made in terms of each application being considered and in the case of these applications the amount was considered to be sufficient. Councillor M Wilkes noted he disagreed with that assessment and felt it represented a very small amount of external amenity space for 12 people and that it was not sufficient given the amount of bins as he mentioned previously. Councillor M Wilkes explained that he considered the lack of parking to be an issue and that simply stating it was not a problem as the area was a controlled parking zone was not addressing the issue. He added that the percentages of HMOs within 100 metres of the properties was around 37 and 48 percent, both in excess on the ten percent set out in the Interim Policy. Councillor M Wilkes explained on the basis of the applications representing overdevelopment, being contrary to Saved Policy H9 in terms of parking, H13 in terms of adverse effect on amenity for residents and the surrounding area he would be minded not to support the applications.

Councillor P Taylor wondered if Lord Justice Underhill had attended the last meeting of the Committee, as what the Lord Justice had stated in his ruling was almost word-for-word what Councillor P Taylor had said. Councillor P Taylor reiterated that Durham City was not a business opportunity for landlords to create HMOs for students, the City was for people. He added that Members were elected to represent and protect people, including the people living in Durham City. He echoed comments from other Members that people were 'sick to the back teeth' of having no power to do anything in the face of such applications and then to be told the risk of a decision being overturned at appeal. Councillor P Taylor noted he felt Councillor M Wilkes was quite right in terms of the applications. However, he added that the Officer's reports and the comments from the Principal Planning Officer were quite right too in terms of the policies, appeal decisions and issues faced. Councillor P Taylor noted there was considerable frustration that Members were unable to protect the City. Councillor M Wilkes noted there was a suite of policies at the disposal of the Committee when looking to determine applications.

The Chair asked if any Member wished to make a proposal in relation to the applications. Councillor M Wilkes suggested that the Committee did have the policies to use and proposed that the two applications be refused as they were contrary to Saved Policies H9 and H13, in terms of a lack of parking and significant impact on residential amenity respectively. He was seconded by Councillor K Hawley.



The Solicitor – Planning and Development noted he would ask if Councillor M Wilkes could expand on the reasons, specifically amplifying upon a “lack of parking”.

Councillor M Wilkes noted there was no additional parking while the number of people to occupy the properties would increase, and that given it was a controlled parking zone this was therefore contrary to policy. The Solicitor – Planning and Development noted that the approach being taken by Councillor M Wilkes was different to that of the Highways Officer in the case of the two applications. The Solicitor – Planning and Development asked Councillor M Wilkes what he was objecting to in respect of character and appearance. Councillor M Wilkes noted he felt the applications represented overdevelopment of the terraced houses, with tiny back yards unsuitable for 12 people in two properties. He added he felt it was contrary to the Article 4 Direction, given the percentages set out within the report. The Solicitor – Planning and Development asked if it was a lack of remaining amenity space that the Member was objecting to, Councillor M Wilkes confirmed it was.

The Planning Officer, LM noted for clarification that the properties were within the controlled parking zone and that no further permits would be issued. She explained that therefore any parking would be at an on-street parking charge cost and it was therefore felt unlikely that additional cars would pay to park. Councillor M Wilkes noted there was an increase in the number of people, with no corresponding increase in parking provision. The Planning Officer, LM reiterated that as there would be no further permits issued, any additional parking would be subject to on-street parking charges and therefore the Highways Section had not objected to the application.

Councillor P Taylor explained he disagreed with the point made at Paragraph 70 of the report with the impact upon the area being deemed as acceptable, he would argue it was the opposite with there being an unacceptable impact on the character of the terrace by adding such ‘carbuncles’.

5a - In reference to application DM/19/03459/FPA - 17 Providence Row, Durham, DH1 1RS, Councillor M Wilkes proposed the application be refused, he was seconded by Councillor K Hawley, upon a vote being taken it was:

## **RESOLVED**

That the application be **REFUSED** as the application was contrary to Saved Local Plan Policies: H9, lack of parking and insufficient amenity space; and H13, adverse effect on character and amenity of the area.

5b - In reference to application DM/19/03494/FPA - 18 Providence Row, Durham, DH1 1RS, Councillor M Wilkes proposed the application be refused, he was seconded by Councillor K Hawley, upon a vote being taken it was:

## **RESOLVED**

That the application be **REFUSED** as the application was contrary to Saved Local Plan Policies: H9, lack of parking and insufficient amenity space; and H13, adverse effect on character and amenity of the area.

### **c      DM/19/03408/FPA - 29 Lawson Terrace, Durham, DH1 4EW**

The Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site.

The application was for change of use from single dwelling house C3 with 2 bedrooms to HMO C4 and was recommended for approval subject to conditions as set out within the report.

The Planning Officer, JJ noted the application property was mid-terrace and the proposed plans included conservation style window and window lights, and there had been no objections from the Design and Conservation Section. She explained that colleagues from Spatial Policy had determined the density of HMOs within 100 metres of the property was 68.9 percent.

The Planning Officer, JJ explained there had been objections from the City of Durham Parish Council and the City of Durham Trust, as set out within the report, with a representative from the Parish Council being at Committee to speak in objection to the application. She added there had also been objection letters from two neighbours and a Local Ward Member.

The Planning Officer, JJ noted that when considering the application, it was felt the application was acceptable in respect of impact upon the Conservation Area, amenity and in terms of parking. She explained that Paragraph 51 of the report went into detail as regards the rationale behind the recommendation for approval, with the consideration being that the application was acceptable in terms of the Interim Policy on Student Accommodation despite being over the 10 percent threshold of HMOs within 100 metres as there was already a percentage greater than 68.1 percent, an amount where conversion of further C3 dwellings would not cause further detrimental harm.

The Chair thanked the Planning Officer, JJ and asked Parish Councillor Roger Cornwell to speak on behalf of the City of Durham Parish Council in objection to the application.

Parish Councillor R Cornwell thanked the Chair and reminded Members that all planning applications had to be determined on the individual facts of the case and noted that as a conversion from a C3 property to a C4 the application differed from the applications considered at Items 5a and 5b, though he hoped for a similar conclusion. He added that decisions by Planning Inspectors could set precedents, however, the Case Officer must show why a particular decision is relevant to the case under consideration. Parish Councillor R Cornwell noted that the Parish Council did not feel that the Planning Officer had done this in this particular case, a blanket 68.1 percent having been applied without further justification, referred to at Paragraph 44 of the Officer's report:

*"...it has been indicated that a level of 61.8 percent or above is deemed to be the point at which an area is already imbalanced".*

Parish Councillor R Cornwell asked where this was "indicated" and why it was "deemed", noting the paragraph was not evidence. He noted upon reading the decision of the Planning Inspector in the case being relied upon within the Officer's report, he felt it was clear the Inspector had taken individual circumstances into account and that looking at several appeal decisions that individual circumstances for each were one common factor.

Parish Councillor R Cornwell noted that there was a need to unpick the appeal decision which gave rise to the 61.8 percent figure to see whether it is therefore relevant in this case. He highlighted that there was a significant difference in between that case and the one for determination at Committee today. He explained that the case considered at appeal concerned a new build specifically focussed for students in Peartree Cottages near the main University Campus. Parish Councillor R Cornwell stated that in that case there was no loss of a family home as there was potentially in respect of the application to be determined. He reminded that policy was to save C3 family properties and argued that the Interim Policy on Student Accommodation did not cover new builds, meaning the appeal referenced was not relevant in this case.

Parish Councillor R Cornwell noted that, specifically in the appeal case referred, the 100 metre radius took into account some houses either side of St. Oswald's graveyard, those not readily accessible from the site in question. He noted that the Inspector had given weight to that saying: *"in the area immediately surrounding the site the figure was considerably higher"*.

Parish Councillor R Cornwell explained what he would draw from that was a need to look more closely at the surrounding area with all the houses within a compact area, either on Hawthorn Terrace or the streets like Lawson Terrace that lead off it. He added that unlike the case being put forward as a precedent, they were all readily accessible to each other.

Parish Councillor R Cornwell noted that Council Tax records indicated that 68.9 percent of properties were let to students, meaning that 31.1 percent, or very nearly a third, were not. He stated that one should not, indeed must not, write off an area where a third of houses were still family homes. He noted that during the last application it was noted the emerging County Durham Plan could not be afforded weight, however, an upper threshold of 90 percent was being suggested.

Parish Councillor R Cornwell referred to the Applicant's Statement and noted the Parish Council had been helped by the Applicant who had come and explained her personal circumstances and those of her mother, in terms essentially the same as in the Committee Report. He noted that unfortunately very few of those were valid grounds in planning terms as the permission goes with the property, not with the applicant, and it was not known how things would pan out in the future. He noted that the Applicant quoted another appeal case, however, the percentage was 78.9 percent, a full ten percent higher than was the case for this application.

Parish Councillor R Cornwell noted that the Applicant quoted an expert opinion that the house was not suitable for the normal rental or private market. He added that this opinion came from people who made their money letting to students. He noted there was another view that may give the Applicant some hope, a letter having been received by a lot of residents from a local Estate Agent stating: "*We have been a student landlord in Durham for 28 years. However, we have also started to buy houses to rent out to non-students, since there is a growing demand from families who want to rent in Durham City*". Parish Councillor R Cornwell noted that the Parish Council therefore inferred that with the right agent the house, subject of the application, could be let to non-students.

Parish Councillor R Cornwell noted in conclusion that the Parish council would ask the Committee to refuse the application on the grounds set out within their objection, as summarised at Paragraph 25 of the Officer's Report.

The Chair thanked Parish Councillor R Cornwell and asked Officers to respond to the issues raised.

The Planning Officer, JJ noted that the appeal referred to was for 10 High Wood View and was a C3 to C4 change of use application which was upheld, with costs awarded against the Council, therefore the advice was not just in reference to new build properties. She noted that the percentage of HMOs within 100 metres of that property had been 69 percent and reiterated that the emerging County Durham Plan was not yet in place.

The Chair thanked the Planning Officer, JJ and asked Ms Gillian Thompson to speak in support of the application.

Ms G Thompson thanked the Chair and noted she was the daughter of the applicant and the application was for her and her mother. She stressed the importance of the situation in that she was now caring for her elderly mother and had given up work to do so, and the property had been a family home for 45 years. She explained that the rent as a student property would make up for her loss of salary and pension, and reiterated that this application was not a typical student landlord application.

Ms G Thompson noted connections to the City and that her mother and herself would not be absentee landlords. She added there was sentimental attachment to the house and that the character would be retained, lending itself to conversion back to a family home should the area change in the future. She noted expert opinion had been that the house was not suitable for 'normal' rental, for reasons including: low-level disruptive noise at night, not conducive to family/working life; the closure of both corner shops and a children's park; and the use of large communal bins.

Ms G Thompson explained that the application had met all Local Planning Policies and therefore should be approved as per the Officer's recommendation and noted that in reference to any tipping point in relation to percentages of HMOs, the area felt more like 81.8 percent rather than 61.8 percent.

Ms G Thompson noted that there would not be six people crammed into the property, rather queen-sized beds would be used, for the first three bedrooms in the first year, with the loft room to be used thereafter. She added that it was a key time of year to be able to sign students up and emphasised the danger of missing this and having the property remain empty for a year. Ms G Thompson noted that the application could be successful at appeal, however, she did not want the extra stress, cost and time to impact upon her mother or herself.

The Chair thanked Ms G Thompson and asked the Committee for their comments and questions.

Councillor M Wilkes noted he had a lot of sympathy with the Applicant's situation, however, he did not feel that the area could be wrote off given a third of the residents were non-students. He asked where the 61.8 percent figure came from as it appeared to be arbitrary, was it the average across a number of appeal cases? He noted he felt minded to move refusal of the application in line with reasons mentioned by the Parish Council.

The Chair asked if Officers could provide clarification as regards the 61.8 percent figure.

The Principal Planning Officer noted that a series of appeals decisions had gone against the Authority where the Authority had felt the applications were contrary to the Interim Policy, with Inspectors noting no upper threshold in relation to HMO density. He added that across those decisions the percentages varied with some up to 80 to 90 percent, and with the lowest where there was a decision against the Authority being 61.8 percent, hence this was adopted as a threshold. The Principal Planning Officer noted that since that time, the Authority has been successful at two separate appeals where the Authority refused applications that were above 10 percent but below 61.8 percent.

Councillor M Wilkes noted that it appeared as if Inspectors based each appeal on the facts of each individual case and therefore an Inspector may support any decision to refuse this application. Councillor M Wilkes proposed that the application be refused being contrary to Saved Local Plan Policy H9, the Interim Policy on Student Accommodation and the NPPF as the application did not encourage a mixed and balanced community. Councillor J Shuttleworth seconded the proposal.

Councillor P Taylor thanked the Applicant for her candour and sympathised, however, he noted applications needed to be looked at on their merits with Members acting professionally and he felt he was unable to support the application.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **REFUSED** as the application was contrary to Saved Local Plan Policies: H9, lack of parking; the Interim Policy on Student Accommodation; and the NPPF, not promoting mixed and balanced communities and with an adverse impact on residential amenity.

### **d      DM/19/03409/AD - North Road, Durham, DH1 4PW**

The Area Planning Team Leader (Central and East), Sarah Eldridge, gave a detailed presentation on the report relating to the abovementioned advertisement application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site.

The application was for advertisement consent for the display of 2 no. externally illuminated hanging signs and 1 no. internally illuminated fascia sign at Revolution Bar (formerly Bishop Langley) and was recommended for approval.

The Area Planning Team Leader noted the application was at Revolution Bar, formerly the Bishop Langley and prior to that the Coach and Eight public house. She explained that there were three signs, and referred to slides showing them in situ, the application being retrospective. She noted that to three sides of the application site there was commercial development, with one side having a small row of terraced properties. The Area Planning Team Leader noted that photographs showed the site in the context of the Conservation Area, World Heritage Site of the Castle and Cathedral, and the close proximity to Framwellgate Bridge, a scheduled ancient monument.

The Area Planning Team Leader noted that previous signage that had been in place had been deemed to be unacceptable and retrospective consent for that signage had been refused in January 2019. She explained that the situation had improved with the current signage having been considered to be acceptable, however, again being in situ prior to this application being determined. The Area Planning Team Leader referred Members to slides showing the signage at the site over a number of years, from the Coach and Eight in 2009 through to the current signage in place.

The Area Planning Team Leader noted no objections from the Highways Section and Design and Conservation Team. She noted objections had been received from the City of Durham Parish, the City of Durham Trust, the World Heritage Site Coordinator and one local resident, with the objections as set out within the report.

The Area Planning Team Leader reminded Members that when determining advertisement consent, the two issues being considered were impact upon amenity and public safety. She noted that in terms of visual impact upon heritage assets, the hanging/fascia signs were considered to be acceptable, and the 2020 pole mounted sign was felt to be equal in impact to previously acceptable signage and therefore itself acceptable. In respect of public safety, the Highways Section had raised no objections in relation to the signage and the Area Planning Team Leader noted that, subject to conditions, the application was recommended for approval.

The Chair thanked the Area Planning Team Leader and asked Parish Councillor R Cornwell to speak on behalf of the City of Durham Parish in objection to the application.

Parish Councillor R Cornwell noted he had an accompanying slideshow that he would refer the Committee to while setting out the Parish Council's objections. He noted that it was the pole mounted sign that brought the matter to Committee today; the Parish Council not challenging the other two elements of the application.

Parish Councillor R Cornwell explained he had been complaining about the sign since November 2018, when the applicants put up a sign without planning permission shortly after the bar opened. He added the applicants appeared to have hoped they could get away with it and put in their first planning application.

Parish Councillor R Cornwell noted that planning permission was rightly refused on 31 January 2019, nevertheless the earlier sign was still in position in July when the Parish council wrote to the Planning Department urging them to take action. He added that the applicants were promising to submit a revised application without doing so, just stringing the Council along for as long as possible in order to keep their unauthorised sign in place.

Parish Councillor R Cornwell noted the applicants did remove the sign after an enforcement notice was issued and added that one evening he saw the sign had gone. He explained that the next day its replacement was in place and noted he could not see any practical difference between the old sign and the new sign, with the applicant having submitted the application as before Committee today.

Parish Councillor R Cornwell noted the Parish Council felt that the Planning Officer's review of planning policy should also have mentioned Paragraph 194 of the NPPF, which the Parish referred to within its submission:

*"Any harm to, or loss of, the significance of a designated heritage asset (from its alteration, destruction or from development within its setting), should require clear and convincing justification. Substantial harm to or loss [...] assets of the highest significance, notably [a list ending with] World Heritage Sites, should be wholly exceptional".*

Parish Councillor R Cornwell noted the comment from the Design and Conservation Team basically stated that the new sign was essentially the same as the previous sign for the Coach and Eight, and this was also reflected within the applicant's statement and the Officer's assessment. Parish Councillor R Cornwell noted the Parish Council disagreed and asked if those commenting actually knew what the old sign looked like. He added the Parish Council did, and it looked nothing like its replacement. He referred Members to a slide showing a photo from Google Streetview taken in mid-2009 showing the Coach and Eight sign and noted that particular sign was quite muted and almost merged into the trees behind.

Parish Councillor R Cornwell explained that the 2009 sign was also much closer to Bridge House, and in fact was in a position behind where a skip was unfortunately placed on the bridge currently.



He added that 2009 position had meant that once starting to cross the bridge, the sign dropped out of view, its position being to attract those walking away from the Castle and Cathedral rather than walking towards it.

Parish Councillor R Cornwell referred to a slide showing the current signage in 2020 and noted the sign was around four metres closer to the river and was much more prominent in the views of the World Heritage Site. He added that it was designed to be seen by people going in both directions and was also glossier and far more 'in your face' than its predecessor.

Parish Councillor R Cornwell noted that the site was for many years the Coach and Eight, then the Bishop Langley, an intermediate stage that did not prosper. He noted that the Coach and Eight sign had been matt, and in muted greens and blues, the Revolution sign in contrast being a large metallic starburst design that was much more prominent.

Parish Councillor R Cornwell added that the Parish Council would point out that Framwellgate Bridge was not only, as stated, Grade I listed and a scheduled monument, there were well-advanced proposals to enlarge the World Heritage Site to include Framwellgate Bridge itself. He insisted that the matter of the advertisement consent was not one to be decided "on balance" as the Design and Conservation advice had put it. Parish Councillor R Cornwell noted any harm to the World Heritage Site had to be "wholly exceptional" and he felt that case had not been made.

Parish Councillor R Cornwell noted there was a reference to the signage on Psyche and he explained that the Parish were clear that the result there was seen as a mistake and explained that mistake in granting permission should not be used to justify another.

Parish Councillor R Cornwell concluded by noting that the Committee could find grounds for refusal helpfully set out within Paragraph 26 of the Officer's report, to which the Parish Council would add Paragraph 194 of the NPPF.

The Chair thanked Parish Councillor R Cornwell and asked Mr Michael Hurlow, representing the City of Durham Trust to speak in objection to the application.

Mr M Hurlow noted he spoke as a Co-opted Trustee and asked Members to draw their attention to the context and circumstances relating to the application. He noted the heritage context was the same as before, however, with greater recognition of the existing scheduled ancient monument, Conservation Area and World Heritage Site. He expanded on the importance of greater recognition in terms of: historic cultural value, intangible heritage; as an historic route into City; a pilgrimage route; and now visitor route, the first close view for those entering City.

Mr M Hurlow noted that development had taken place in this part of the City Centre, with negative impact from: the Psyche illuminated sign, highly visible at night; modern materials and poor quality at the Riverwalk entrance, a new application for Curious Mr Fox; the new Revolution terrace conservatory, highly visible especially at night and permanent in appearance; and cumulatively negative impact on bridge view to World Heritage Site and Conservation Area. He added that positive developments in the area had included the £600,000 relighting of the Castle and Cathedral and the resurfacing of Framwellgate Bridge, noting this was very good and represented a lot of investment.

Mr M Hurlow noted the leisure presence on historic streets growing with increasing numbers of potentially prominent applications, competition and national chains. He added this was feeding off the heritage value and student presence with little feeling for the historic environment that supported it. He referred to other Revolution Bars in the contexts of World Heritage Sites and noted as a large national chain, it had bars in both Bath and Liverpool's Albert Dock, both of which had received much more sensitive signage, especially the example in Bath, with Durham being treated differently, in fact worse.

Mr M Hurlow noted that in terms of impact, the lower frontage signs had some impact upstream of bridge, however, the greatest impact was by the lit pole sign by the bridge, directly on the bridge view of the World Heritage Site and Castle, day and night. He added that the City of Durham Trust did not agree with the views of the Design and Conservation Team at the Council and that the individual and cumulative impact was negative with the pole sign having a very obvious negative impact especially at night and with the new positioning being such it physically blocked part of the view.

Mr M Hurlow noted that, in summary, the impact of signage was negative, harming the World Heritage Site, Conservation Area and bridge as listed building and scheduled ancient monument. He added the impact was both as individual proposal and cumulative and that failure to refuse would be contrary the range of Local Plan Saved Policies intended to protect the historic environment. He noted that failure to refuse would also be to allow a proposal with an impact that other World Heritage Sites have managed to avoid and allow corporations to damage the significant public investment in the historic environment.

The Chair thanked Mr M Hurlow and noted Mr James Beckely, from the Applicant, Revolution Bars Limited was in attendance. Mr J Beckley noted he did not intend to speak, however, was willing to answer any questions the Committee may have, through the Chair.

Councillor J Shuttleworth noted the recommendation of Officers and took the view that the business was generating income for the area in terms of business rates and employment and therefore moved that the application be approved.

Councillor M Wilkes noted that he disagreed with Councillor J Shuttleworth and asked why the sign had been put up without permission in place, especially as the situation appeared to mirror the position prior to the last sign having been refused. The Chair asked if Mr J Beckley wished to respond. Mr J Beckley noted he had only become the Area Manager in this region in the Summer of 2019 and noted that external advertisements were key to generating interest in the business and the signs had been similar to those in place previously.

Councillor M Wilkes noted he felt removal of the sign would not be detrimental to the livelihood of the business and felt the negative impacts of the sign on the World Heritage Site were such that he would move the application be refused as it was contrary to Saved Policies E3, E21, E22, E23 and Q16.

Councillor P Taylor asked why the application was at Committee, and whether pre-application advice had been sought. The Chair asked if Mr J Beckley wished to respond. Mr J Beckley reiterated he had recently taken over in the area and noted he had not spoken to Officers beforehand, when he looked at the case and application he saw no objections from the Council and therefore assumed there were no planning issues. The Area Planning Team Leader noted that following the refusal of the first retrospective application, conversations with the applicant had taken place as regards suitable materials and illumination, however, the sign had been put in place prior to the application being determined.

Councillor M Davinson noted the Planning History of the report seemed to suggest no history of permission for any signage at the site. The Area Planning Team Leader noted consent granted in 2005, though noted signage for the Bishop Langley appeared to have not been granted permission.

Councillor P Taylor seconded Councillor J Shuttleworth, Councillor B Coult seconded Councillor M Wilkes. The Chair noted that as Councillor J Shuttleworth's proposal had been seconded first, that would be voted upon first.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions set out within the report.

*Councillors M Davinson and K Hawley left the meeting at 2.41pm*

**e     DM/19/02546/FPA - Site of Former Gilesgate Comprehensive School, Bradford Crescent, Gilesgate, DH1 1HN**

The Senior Planning Officer, Laura Eden, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site.

The application was for the erection of 60 dwellings with associated access, infrastructure and landscaping and it was recommended that the Committee be minded to approve the application with conditions and Section 106 Legal Agreements as set out within the report, the application being subject to referral to the Secretary of State.

The Senior Planning Officer noted the application referred to the former Durham Free School site at Bradford Crescent, Gilesgate, the school building having been demolished in 2016. She noted that part of the site had included former school playing fields and a multi-use games area and the site had levels which varied by approximately three metres. It was added that a Public Right of Way, Bridleway 114, lies through the south west corner of the site and the scheme had been amended so that there was no obstruction to the bridleway route.

The Senior Planning Officer noted the application was for 60 dwellings, with 25 percent being affordable units, nine two-bed two-storey houses and six two-bed bungalows. She explained all properties would have off-street parking and private gardens, with the access to the site being the existing access that had served the former school. She added the scheme proposed a Sustainable Drainage System (SuDS) and amenity space within the design and as some tree removal was proposed, the Developer had proposed some additional tree planting. Members were referred to proposed elevations and property types noting red brick construction, stone sills, and white uPVC windows and white and anthracite uPVC doors.

The Senior Planning Officer explained that the playing fields at the north of the area were excluded from the application site and the relevant distance standards to existing dwellings were met.

The Senior Planning Officer noted there had been objection from Sport England to the loss of sports facility, however, she noted the facilities were in a poor state of repair, the former school having been demolished for approximately four years. She explained that the applicant had agreed to a Section 106 Agreement in the sum of £100,000 to be used towards the implementation of the recommendations within the Central Planning Area as contained within the Council's Playing Pitch Strategy, however, Sport England maintained their objection.

The Senior Planning Officer noted Belmont Parish Council did not object to the application, however had raised some issues, as set out within the report.

She noted the layout of the scheme had been amended to address earlier comments from the Highway Authority, and while sufficient visitor car parking would be provided Highways had raised concerns that they were not evenly distributed throughout the development. She added Spatial Policy noted the site was designated green within the Strategic Housing Land Availability Assessment (SHLAA) and therefore they had no objections. The Senior Planning Officer noted no objections from internal consultees subject to the conditions and Section 106 Legal Agreements as set out within the report.

The Senior Planning Officer explained there had been one letter of objection received prior to report being completed, with several points relating to: highways, coal mining, drainage, the public right of way and trees. She noted there had been a further letter of objection since the report had been completed, noting potential damage to property, it was added this would be a civil matter and not planning issue.

The Senior Planning Officer noted the City of Durham Trust supported the application, noting redevelopment of an overgrown site and the provision of 25 percent affordable homes being welcomed. It was added the Trust had noted some concerns as regards the size of most of the dwellings and the loss of trees. The Senior Planning Officer noted Gilesgate Residents' Association expected residents to be neutral towards the application and formal comments were expected to follow after a public meeting of the Association on 14 September 2019, however, these were comments were not received.

The Senior Planning Officer noted that the application was considered in terms of the NPPF Paragraph 11(d) balance test, with a number of benefits including: sustainable location; range of house types; bungalows; redevelopment of a previously developed site; increase to biodiversity.

She added there was not felt to be any significant harm from the proposal, with the loss of trees having been minimised and therefore the recommendation was that the Committee be minded to approve the application, the application then to be referred to the Secretary of State; and in the event of the application not being called in, the Head of Planning be authorised to determine the application.

The Chair thanked the Senior Planning Officer and noted the Development Director, Chapter Homes, Richard Roddam was in attendance to answer any queries from the Committee if necessary. She asked the Committee for their comments and questions.

Councillor J Shuttleworth moved that the application be approved. Councillor M Wilkes asked for clarification as regards Condition Six and in terms of details to specify 'proper' replacement trees, not whips. He also asked as regards renewable energy for Chapter Homes properties. The Senior Planning Officer noted that in relation to Condition Six, to discharge the condition Landscape and Tree Officers would need to be satisfied with suitable submitted schemes for landscaping and planting. She added that the application had been amended to minimise impact upon trees.

The Development Director, Chapter Homes noted at previous sites a standard tree had been used and similar type would be used for this site. He added that in terms of sustainable energy at the properties, he noted that the properties themselves exceeded current building regulations as regards thermal efficiency and A-Rated appliances were specified with the properties. He added that Chapter Homes would help any customers if they wished to specify any additional sustainability features, noting that at a previous development a number of customers had asked for solar panels.

Councillor M Wilkes noted he was happy to second Councillor J Shuttleworth. He added that, given the close relationship of the Council and Chapter Homes, and with the Council moving towards being carbon neutral, he felt there should be a marker down in terms whenever possible to be as carbon neutral as possible, setting an example for other developers.

Councillor J Shuttleworth proposed the application be approved, he was seconded by Councillor M Wilkes.

## **RESOLVED**

That the Committee were **MINDED TO APPROVE** the application subject to referral of the application to the Secretary of State; and, in the event that the application was not called in by the Secretary of State that it be **APPROVED** subject to the conditions and Section 106 Legal Agreements as out within the report.