

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 9 May 2023** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors L A Holmes (Vice-Chair), L Brown, I Cochrane, J Cosslett, M Currah (substitute for J Quinn), S Deinali, J Elmer, D McKenna, R Manchester, C Marshall, K Shaw and A Surtees

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell and J Quinn.

2 Substitute Members

Councillor M Currah substituted for Councillor J Quinn.

3 Minutes

The minutes of the special meeting held on 30 March 2023 and meeting held 11 April 2023 were confirmed as correct records by the Committee and signed by the Chair.

4 Declarations of Interest

The Chair, Councillor D Freeman noted he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not had any input into their submission in objection to applications on the agenda. He added that he was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

Councillor L Brown noted she was a Member of the City of Durham Parish Council, however, she was not a member of their Planning Committee and had not had any input into their submission in objection to applications on the agenda. She added that she was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to applications on the agenda. She explained that she was a Local Member in respect of Item 5b and noted she had predetermined and therefore would speak as Local Member, then leave the meeting during the consideration thereof.

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

a DM/22/00209/OUT - Land to the west of Dunelm Stables, Thornley, DH6 3BN

The Principal Planning Officer, Leigh Dalby 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 an outline application with some matters reserved (appearance, landscape and scale) for up to 20 self-build residential dwellings (C3) with associated works and was recommended for approval, subject to the conditions as set out in the report.

The Chair thanked the Principal Planning Officer and asked Kevin Ayton, Agent for the Applicant to speak in support of the application.

K Ayton noted that the proposals for 20 self-build plots represented the third and final phase of the larger site and noted there had been a number of enquires as regards the self-build plots. He added that the application would also help in terms of infrastructure and that phases one and two had demonstrated the principle of development and was supported by local plan policy. He explained that the proposals represented consolidation on three sides and was in keeping with phases one and two. He reiterated that the proposals were in line with policy, including in terms of amenity and habitat, and that the applicant had engaged with the Local Authority and that there were a number of benefits for Thornley from the development.

The Chair thanked K Ayton and asked the Committee for their comments and questions.

Councillor J Elmer noted he was very pleased with the proposal for self-build as that often meant a better quality of dwelling with better energy efficiency.

He noted that many of the issues relating to the development would be considered at the reserved matters stage and concurred with the landscape officer in terms of the mature hedgerow and proper safeguards. He noted that he was happy in terms of ecology being at the reserved matters stage, though felt that as self-build, while not wanting to constrain those choosing to build, he would hope for advice to be given in terms of improving the position in terms of wildlife such as minimising hard landscaping. He noted the condition relating to Policy 29 and energy efficiency and would hope for elements at reserved matters such as electric vehicle (EV) charging, solar panels and air source heat pumps. He noted that he was happy to move approval of the application.

Councillor L Brown asked as regards where the offsite affordable housing provision would be, and how close the development was to existing bungalow, as condition 12 referred to 0730 start and noted that 0800 may be preferable. The Principal Planning Officer noted that an 0800 start time did not seem unreasonable should Members wish, and noted the condition relating to the hedgerow, with landscaping to be at the reserved matters stage for each plot, as would any biodiversity net gain, though there were conditions relating to 40 trees to be planted and one bird and one bat box per dwelling. The Chair noted the issue of affordable housing, the Principal Planning Officer noted that there was not a defined location for the off-site provision, and whilst it was generally within the electoral division, there was not an earmarked site. Councillor L Brown noted she would second Councillor J Elmer, with the amended start time as noted.

Upon a vote being taken, it was:

RESOLVED

That the application be **APPROVED**, subject to the Section 106 Legal Agreement, conditions as set out within the report and an amended condition in respect of 0800 start time for hours of operation.

b DM/22/01650/FPA - 1 Larches Road, Durham, DH1 4NL

The Planning Officer, Michelle Penman 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 6 bed C4 to 9 bed Sui Generis HMO with single storey rear extension and was recommended for approval, subject to the conditions as set out in the report.

Councillor C Marshall left the meeting at 10.00am

The Chair thanked the Planning Officer and asked Parish Councillor Grenville Holland, representing the City of Durham Parish Council, to speak on the application.

Parish Councillor G Holland explained that Members of the Committee would have noted that no less than 38 households in the immediate vicinity of the property had lodged written objections. He added that the strength and the breadth of those objections should alert the Committee to the level of feeling in the neighbourhood, a feeling which, as Members would be hearing, was based on their experiences in recent years. He noted that, in planning terms, the extension of the property apparently survived the restrictions imposed by County Durham Plan (CDP) Policy 16.2 whose intention was to prevent our city becoming no more than a student dormitory for Durham University. He added that, as Members were aware, it was a policy that was being bypassed by the landlords. He explained that, however, Policy 16 was not the only constraint on such developments, there were other policies designed to protect both the setting of our neighbourhoods and the welfare of its residents, and the integrity of those policies must not simply be minimised, as had happened in the Officer's report at paragraph 71. Parish Councillor G Holland noted that it was a great pity that Committee Members no longer made the once obligatory site visit prior to their meetings as it would have enabled Members to see first-hand the concerns of the residents.

Parish Councillor G Holland noted he would refer to the policies that led to the conclusion that the application should be refused, explaining that they included Part 12 of the National Planning Policy Framework (NPPF), CDP Policy 29 paragraphs a, c, e and f, and Policy 31, as well as Policies S1, H3 and D4 of the Durham City Neighbourhood Plan (DCNP).

He noted that Part 12 of the NPPF was a baseline policy, which sets the platform to achieve well-designed places, and offered guidelines as to how that target could be reached by requiring sustainable buildings and by making certain that developments will *'always add to the overall quality of an area, not just for the short term but over the lifetime of the development'*. He added that the proposed development at Larches Road missed that target completely. He explained that Policy 29 of the CDP provided more restrictive conditions, and that the proposed extension did not, to quote 29a, *'contribute positively to an area's character, identity, townscape and landscape features'*, nor did it help *'to create and reinforce locally distinctive and sustainable communities'*. He added that furthermore, it most certainly did not, to quote 29e, *'provide high standards of amenity and privacy and minimise the impact of [the] development upon the occupants of existing adjacent and nearby properties'*.

Parish Councillor G Holland explained that there was plentiful evidence from the local residents that the property already fails 29f, '*contribute towards healthy neighbourhoods*'; noting that indeed, once increased in size, as planned, its negative impact would be even more damaging.

In respect of CDP Policy 31, amenity and pollution, Parish Councillor G Holland noted that it required that '*there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions*' and that it '*can be integrated effectively with any existing community facilities*'. He added that the application also fell short of DCNP Policy S1, sections a) and c), because it did not, '*conserve the significance of the setting, character, local distinctiveness, tranquillity, and the contribution made to the sense of place*'. He noted that nor did it secure the '*equity and benefit to the local community*' required by that policy nor, according to the residents, did it offer '*a design and layout capable of respecting the privacy of, and visual impact on, occupiers of neighbouring properties*'.

Parish Councillor G Holland added that the application did not meet the constraints of DCNP Policy D4 by providing accommodation to the highest standards. He explained that this particular building was once a fine residential home with beautiful and well-maintained gardens and noted that now it was proposed to reduce it to no more than an unkempt functional building of convenience designed solely for profit by crowding in as many students as possible. He noted that as a new extension to an existing house, it would fail to respect '*the character and appearance of the local area*'. Parish Councillor G Holland added that the application did not meet the demands of DCNP Policy H3 because the development would most certainly not '*sustain and make a positive contribution to the character and quality of the area*'.

Parish Councillor G Holland noted, in summary, that the application failed elements of the NPPF Part 12, and the constraints embedded in CDP Policies 29 and 31 and DCNP Policies S1, D4 and H3.

He explained that the detailed record of neighbours' concerns made it clear that the proposed development would have an unacceptable impact on their neighbourhood and their lives. He added that even the Officer admits in her report that '*the change of use proposed will lead to a significant intensification of residential use. This will increase the likelihood of general noise... which may impact on neighbouring residential use*'. He added that, however, the Officer sets that aside as '*unlikely to cause a statutory nuisance*'. He asked did that mean that the policies he had just discussed carried no weight unless it was certain there would be a statutory nuisance.

Parish Councillor G Holland explained that the golden thread of these policies was that any development: must '*always add to the overall quality of the area*'; must '*sustain and make a positive contribution to the character and distinctiveness of the area*'; must bring '*equity and benefit to the local community*'; and must respect "*the privacy of occupiers of neighbouring properties*'. He noted that the phrasing, the words, and the spirit of those policies could not be set aside and added that simply concluding in the Officer's report that it would not do that much damage and that residents would just have to get used to the added problems it created in their community, did not accord with those policies and was no longer acceptable. He added that the Committee therefore would need to confirm that our planning policies, so recently endorsed and approved, actually mean what they say they mean, and that they were policies that set the standard both now and in the future. Parish Councillor G Holland explained that the application had understandably aroused strong local opposition and noted that the Committee would hear first-hand about those concerns. He concluded by asking that the Committee listen to them, as it was Members who acted as their voice, and today Committee Members were the only voice that they had.

The Chair thanked Parish Councillor G Holland and asked Madeleine Ashdown, representing local residents in objection, to speak in relation to the application. He noted there would be slides accompanying the representations.

M Ashdown thanked the Chair and explained she was speaking on behalf of the many residents in her neighbourhood who had objected to the application, and that residents would, in particular, like to thank our MP, Mary Foy for her ongoing help and support in respect of the matter.

She noted Parish Councillor G Holland had already explained why the application did not comply with the demands of relevant planning policies, accordingly, so noted that she would like to explain why residents objected so strongly to the application. She noted that in her statement, the applicant said '*I am a responsible landlord living locally and rarely have problems from my tenants*'. M Ashdown noted that residents' experience was that that was simply not true, and they had been told of problems elsewhere in the city. She noted that there had always been issues with this student accommodation, however, since this applicant bought 1 Larches Road in 2021, local residents had suffered ongoing problems that had caused disruption and distress to their family lives.

She explained that those problems included, to name a few:

1. late night noise and antisocial behaviour;
2. a serious outbreak of rats in the house next door;

3. uncontrolled storage of rubbish;
4. very poor maintenance of gardens and hedges;
5. parking cars and smoking weed in the back garden.

M Ashdown noted that in the last two years the students had hosted too many very noisy parties, disturbing neighbours until 3.00am or 4.00am, and the impact on the surrounding houses had been huge because the students gathered in the car port and in the garden outside the dwelling so that noise spread easily and widely. She added that the next-door property, Rounton, contained two student flats which were both Houses in Multiple Occupation (HMOs), and the students in both properties went back and forth between the two when parties were being held. She noted that when asked to quieten down, the students had been abusive. She added that neighbours had to call the police on several occasions, and the Community Response Team came out to the house wearing bodycams and dealt with the disturbances, which were recorded.

M Ashdown explained that the owners of the next-door property on Shaw Wood Close moved into their house about 18 months ago and the first thing they had to deal with was to call out pest control to deal with the outbreak of rats coming from next door, where dustbins were constantly overflowing and often not put out for collection. She noted that the bad management of waste had caused a major health hazard to neighbours living close by. She explained that the Applicant was never seen on site to oversee and manage this high-risk situation, rubbish was just dumped in the front drive when the tenants moved out.

M Ashdown noted that the back garden, once beautiful, was now abandoned and added that the photos shown by the Case Officer showed that the applicant cleaned up the garden when she put in the application. She added that neighbours on Shaw Wood Close repeatedly tried to contact the applicant to ask her to cut back the hedge between their properties and explained that the hedge had grown so high it had reached 9 metres high at one point. She noted that yet, the applicant ignored them so that at last, they had to cut the hedge back themselves leaving a note for her through the door. M Ashdown explained that the Applicant then came to their house shouting, called the police, and tried to have them charged with criminal damage. She noted that what the applicant describes in the Officer's report as '*having to involve the police*' because of problems with neighbours was actually threatening behaviour towards our neighbours who were simply trying to keep their own house in good order.

M Ashdown noted that the statement by the applicant in the Officer's report that '*Neighbours occasionally contact me; any problem is swiftly dealt with*' was clearly untrue.

She explained that students often smoked weed in the back garden; the smell was sometimes so strong that a close neighbour could not let her young daughter play in the garden for fear of her breathing in fumes. She added that, taking advantage of the neglected garden, students had often used the back lawn to park their cars, overlooking the neighbouring houses to the rear, cars being sometimes left over the holiday period.

M Ashdown noted the applicant was now planning to add another three bedrooms to a property that had already been extended from three to six. She noted the Case Officer did not think that there would be any overlooking issues between the extension and neighbouring properties, but the photo, set out in the presentation, shows that in fact it would intrude appreciably into the gardens of houses to either side. She reiterated that poor management by this landlord had already seriously affected our neighbourhood even with six residents in occupation and asked Members to imagine how that would be magnified by cramming in yet another three students. She added that indeed, the Case Officer admitted that in her statement: *'the change of use proposed will lead to a significant intensification of residential use of the property via the introduction of an increased number of bedrooms/occupants. This will increase the likelihood of general noise... which may impact on neighbouring residential use'*. M Ashdown asked how that could accord with planning policies designed to protect our neighbourhoods and reiterated that the proposals would make an awful situation for residents even worse. She thanked the Committee for listening to residents' concerns and asked, for the sake of all of those who live in the area, that Members refuse the application.

The Chair thanked M Ashdown and asked Councillor L Brown, Local Member, to speak in relation to the application.

Councillor L Brown thanked the Chair and explained that the property had originally been a four bedroom detached family home, adding she went to school with children who had lived there. She noted that turning it into a nine bedroom HMO represented overdevelopment that was off the scale, in direct conflict with CDP Policy 6 parts b and d, which refer to inappropriate back land development and the scale and character of such development and directed Members particularly to Paragraph 4.115 of Policy 6. She added that the application was also in conflict with CDP Policies 29 and 31, which deal with residential amenity. She noted there was a history of complaints about the property and an apparent lack of control by the owner, which could only be compounded by increasing the number of residents. She explained that DCNP Policy H3 referred to a development making a positive contribution to the character of an area, which should be taken into consideration. She added that Members should also consider the application in the context of the Council's Residential Amenity Supplementary Planning Document (SPD). She asked how many times could you extend a house before the character of the original property was lost?

Councillor L Brown, in respect of planning policy, noted that there had been many HMO conversions and extensions put before Committee in the last few years as the University had expanded. She noted that most of those had been approved under CDP Policy 16, however, too much weight was being given to both the Committee and Officers to that policy. She explained that this was understandable as Policy 16 was a quantifiable policy, where an application either met the criteria or did not. She noted that planning, as set out by the NPPF, was all about balance, adding that very little weight seemed to be given to other planning policies which also contain material planning considerations. She explained that those policies were equally important as they were all put through an equally stringent validation by Inspector Fieldhouse in 2019.

Councillor L Brown asked that the Committee therefore not only look at Policy 16, where of course the application meets the criteria, but also consider and give equal weight to whether the application stands or fails against CDP Policies 6, 29 and 31, as well as Policy H3 of the DCNP. She concluded by noting that policies that make one think were equally as important as a policy where the answer was handed to one on a plate.

The Chair thanked Councillor L Brown and asked the Committee for their comments and questions.

Councillor L Brown left the meeting at 10.21am

Councillor J Elmer thanked the speakers, including the representations on behalf of residents. He noted that Councillor L Brown had spoken of 'balance' and while the application was in line with Policy 16, there were other policies to consider, for example Policy 6, point 4.115 which stated: '*...conversions and replacement buildings, proposals should not significantly increase the size or impact of the original building where this would have an adverse effect on the character of the surrounding area or the amenity...*'. He noted that the Committee had heard as regards the issues with amenity, anti-social behaviour, noise, threatening, abuse, parties, drug use and police involvement. He added that represented significant harm.

Councillor I Cochrane left at 10.23am

Councillor J Elmer explained that Council Tax records gave an HMO percentage in the area of 8.5 percent, however, it was likely higher as it was not always possible to tell by Council Tax records whether a property was being used as a student HMO. He noted the objections that had been raised by the residents, Local Member, City of Durham Parish Council, City of Durham Trust and the Local MP and explained that therefore he would move refusal of the application.

Councillor J Cosslett noted he would second the motion for refusal.

Councillor I Cochrane entered the meeting at 10.25am

Councillor K Shaw referred to a recently approved purpose built student accommodation (PBSA) block, noting such applications were approved, in part, as they helped to reduce the demand for change of use of residential dwellings into student HMOs. He added he shared the concerns raised by residents in respect of the application. He noted that Members were referred to policies within the CDP, NPPF and DCNP and told by Officers that the application should not be refused, however, he felt that there must be a tipping point. He added there had been a 900 bed student accommodation previously approved and noted that he felt that now we were at that tipping point. He explained he understood that each application should be considered on its own merits, however, in this case the move from six to nine bedrooms was too much and therefore he was opposed to the application.

Councillor A Surtees noted she agreed with Councillor K Shaw and noted that Members were in a very difficult position and noted Members had sat in Committee many times considering HMO applications. She noted there was a need to look at this issue and to have a firm policy as, at the moment, applicants use the NPPF, and reiterated that the Council needed to 'grab the bull by the horns' in terms of policy. She noted she too was opposed the application.

The Chair noted that he felt the Council did have the requisite policies to deal with HMO applications.

Councillor J Elmer noted for clarification that the large PBSA located down the hill from the application site was very much a University project and that they preferred their PBSAs and therefore he felt refusing this application would align with Durham University's position.

Councillor K Shaw noted that he felt any refusal in this case would not be carte blanche for the future applications for change of use for HMO, rather was specific for this application.

The Principal Planning Officer, Paul Hopper noted that Policy 16 was a policy relating to the principle of HMOs, designed to protect the balance of communities. He noted the Committee had noted the issues of noise and disturbance and how that impacted the community. He added that Officers had felt that the application was in accordance with Policy, however, the speakers had referred to other policies relating to noise and disturbance that were material.

He added that if Members felt that those issues outweighed in terms of residential amenity, if they could expand on their reasoning as he felt it would be important, should the decision required to be defended at appeal. Councillor J Elmer noted he felt the strongest point was in relation to Policy 6, in securing the amenity of neighbouring properties, not just in terms of noise, but also anti-social behaviour, rats, drug use, parties, abuse and police involvement. He noted there was ample evidence of existing impact, made worse if the property was extended. The Principal Planning Officer noted that the identity of the applicant was not material, nor was previous impact. Councillor J Elmer noted it was the impact on amenity by the additional number of students proposed by the application. The Lawyer (Planning and Highways), Neil Carter noted that he would caution against any refusal reason linked to the applicant or tenants, rather to focus on amenity issues, not individual tenants or neighbour disputes.

Councillor A Surtees noted those were the reasons she felt that there needed to be an HMO policy with criteria for clarification, reiterating she felt the policy in place was not firm enough.

Upon a vote being taken it was:

RESOLVED

That the application be **REFUSED** as the change in use of the property to a larger house in multiple occupation (Use Class Sui Generis) and the associated increase in occupants would have an adverse impact on the amenity of existing residents through increased noise, disturbance and antisocial behaviour, contrary to the aims of policies 6, 29 and 31 of the County Durham Plan and Part 15 of the NPPF.

Councillor L Brown entered the meeting at 10.39am

c DM/23/00456/FPA - 3 Wentworth Drive, Durham, DH1 3FD

The Senior Planning Officer, Lisa Morina 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 dwelling (use class C3) to House in multiple occupation (HMO) (use class C4).and was recommended for approval, subject to the conditions as set out in the report.

The Chair thanked the Senior Planning Officer and asked Parish Councillor Susan Walker to speak on behalf of the City of Durham Parish Council in relation to the application.

Parish Councillor S Walker thanked the Chair and noted that the Parish Council's Planning Committee strongly objected to the application. She noted that the application represented the first change of use application since the introduction of the Article 4 Direction to Mount Oswald in October 2011. She explained that in their original justification for the introduction of the Article 4 Direction, the County Council had concluded that:

'a) there is evidence of student households (which are generally HMOs) in these areas and;
b) residents have expressed concerns that concentrations of HMOs can negatively impact upon residential amenity (the quality of an area and the impact on local living conditions) and change the overall character of an area'.

Parish Councillor S Walker noted that one of the key challenges identified in the DCNP was the loss of family homes to student accommodation and the imbalance it created. She noted the imbalance in parts of the city was damaging the quality of life and future sustainability of schools, shops and other services and facilities. She explained the Parish Council had regard to the objection letters submitted by neighbouring properties and noted that over 30 residents had attended a recent meeting of the Parish Council's Planning and Licensing Committee to discuss the matter with the Parish Council. She explained that it should be noted that nearby residents had reported being detrimentally affected by anti-social behaviour attributed to other student properties in the locality and residents had also reported that attempts to rectify the problems with HMOs had fallen on deaf ears, with no meaningful planning enforcement action when things had gone wrong.

Parish Councillor S Walker noted it was reasonable to assume that the occupiers of an HMO were likely to lead independent lives from one another and, taking into account the size of the application site, the activity generated by several persons living independent lives, with separate routines, and their attendant comings and goings along with those of their visitors would lead to a level of activity that would be markedly more intensive than which could be reasonable be expected to be associated with a single household. She added that the activity, within an area where there was already a number of existing HMOs, would have a detrimental effect on the living conditions of neighbouring properties. She noted that, in particular, it was fair to assume that any future tenants of the property would likely be more frequent users of the city's night-time economy and therefore the likelihood of noise at anti-social hours was increased significantly.

Parish Councillor S Walker explained that CDP Policy 29 was clear that all development would be required to achieve well designed buildings and places, having regard to SPDs and other local guidance documents where relevant and:

'e) provide high standards of amenity and privacy, and minimise the impacts of development upon the occupants of existing adjacent and nearby properties' and;

'f) contribute towards healthy neighbourhoods and consider the health impacts of development and the needs of existing and future users'.

Parish Councillor S Walker explained that Policy 31 relating to amenity and pollution also stated that development would be permitted where it can be demonstrated that there would be no unacceptable impact, either individually or cumulative, on health, living or working conditions. She added that the Parish Council was concerned that the present proposals would result in a further imbalance in the community and would have a detrimental impact on the surrounding residential amenities through noise and disturbance, contrary to CDP Policies 29 and 31, as well as the NPPF Paragraph 130(f) which sought to resist development that adversely affects residential amenity.

Parish Councillor S Walker asked Members to consider the car parking needs of the proposed development, with the proposals appearing to have two spaces for six unrelated adults and their visitors and guests, to be provided on a narrow single driveway. She noted that no dimensions for those proposed in-curtilage parking spaces had been provided as part of the submitted plans and therefore it was impossible to identify if they meet the requirements of Council standards. She explained that the Parish Council was also concerned as regards the proposed bin storage and cycle storage for the dwelling, within the garage itself, further restricting the parking space within the garage. She added that the reality would be that cars would be spilling out on to the street if the development was approved. Parish Councillor S Walker noted that, in addition, the narrowness of the driveway would mean that the cars would need to be removed for transporting the bins to and from the kerbside, and in all probability to access the garage as a bicycle store. She added that would require a significant level of coordination and cooperation from six unrelated adults and it was not unreasonable to accept that the management of household waste could become somewhat unneighbourly, giving rise to a significant loss of amenity to local residents.

Parish Councillor S Walker explained that there was no provision of EV charging points as required by the Council's Parking and Accessibility SPD, which would make potential residents dependent on the more expensive public charging network.

In considering the needs of any future residents, Parish Councillor S Walker reminded Members that Policy 29 stated that '*all new residential development will be required to comply with the Nationally Described Space Standards (NDSS)*'. She explained that residents noted the objections from residents and also the website for the original developer of the site. She noted that the application site house is of the house type '*Bradgate*' and the proposed bedroom six was the former study of the dwelling, the original developers having not thought it large enough to be called a bedroom. She noted that while the proposed elevations submitted by the applicant do not include room dimensions, neighbours in the same house type have measured their own study rooms and concluded that bedroom six was in fact 5.91m². She added that was below the 7.5m² minimum required by the NSSS and the minimum 6.51m² required by HMO space standards. Parish Councillor S Walker noted that, putting aside the immorality of people in HMOs not having the rights to the same standards as the rest of the community, she felt the Committee deserved that that measurement be checked.

Parish Councillor S Walker explained that much of the proposed gross internal floorspace of the dwelling was proposed to be taken up by private bedrooms which effectively leaves very limited communal living space for future occupants. She noted that, as such, the applicant's assertion that the dwelling could accommodate six bedrooms was incorrect, adding that Members had a duty to potential tenants of the developer, that they were not "packed in like sardines".

Parish Councillor S Walker concluded by noting that the development was not only significantly detrimental to the amenity of neighbouring residents, it was not even providing barely adequate provision for future occupants and for those reasons, and the fact Durham City needed more familiar homes not fewer, the application should be refused without delay.

The Chair thanked Parish Councillor S Walker and asked Fiona Adamson, Chair of the Mount Oswald Residents Association, to speak in relation to the application.

F Adamson noted she represented 47 residents and apologised that 45 of those had been unable to attend the Committee. She reminded Members that the estate had been created to provide local family homes, with families having bought properties on that basis. She added it was not a case of '*town versus gown*', rather that the Mount Oswald development had been for mixed use, with two colleges for students, of 850 beds, and the rest for residential homes. She noted that the approval for the PBSAs would be negated if HMOs were permitted it was against the original vision of the Mount Oswald development.

She added the threat of systematic loss of family homes was a serious issue and residents had been delighted as regards the Article 4 Direction. She noted the Officer's report referred to an HMO percentage of 7.3 percent, however, local knowledge of additional properties where landlords pay Council Tax as the price to pay to operate an HMO. She added that a large HMO property at the Bellway site also skewed the figures, and that looking at the postcode, one in five properties were HMOs.

F Adamson noted that CDP Policies 29 and 31 and explained that the impact of six people would be greater than a family and that student properties within the development were easily recognisable, with unkempt gardens, rubbish and a number of cars at those properties. She noted that it was unfair that existing residents should be impacted negatively and that was contrary to Policies 29 and 31. She noted that it was stated that the property would be for rent, not necessarily for students, but could include families, however, she noted that as someone that had grown up in Durham City, all areas now had a proliferation of HMOs and therefore it was important to prevent what was happening. She noted that the 150 residents of the development had bought their forever homes and noted the Elected Members of the Committee could prevent the takeover of a family area.

The Chair thanked F Adamson and asked the Committee for their comments and questions.

Councillor L Brown noted the application was within her Electoral Division and referred to paragraph 87 which set out the public highways were not adopted and asked whether this matter was in hand by the Council. She also noted that the previous application had referred to the balance in terms of student properties within an area and noted that Planners had not expected these properties to become HMOs as they had been deemed too expensive to be let for students and therefore no covenants had been placed on the properties. She therefore noted that Members should look at the balance and while the proposals may meet the requirements of Policy 16, she would say the application was against CDP Policies 21, 29, 31 and those within the DCNP and therefore she would vote against the application.

Councillor J Elmer noted that for the sake of consistency, he would note similarities to the previous application, adding six students into an area, where there were already concerns relating to anti-social behaviour, litter, noise, there would be impact upon residential amenity. He noted that additionally there was a lack of cycle parking, parking, EV charging and there was the question of the NDSS and bedroom sizes. He added that with 47 neighbours objecting, there was a strength of feeling from the community, and he felt it was important that Elected Members listened.

He concluded by noting that the area should be for family homes, including for older people, and that the University had the students covered in this area, and therefore the application should be refused. Councillor L Brown seconded the motion for refusal.

Councillor K Shaw noted his concerns, and the need to be consistent in decision making. He added the proposal represented a smaller six bedroom HMO and was a more acceptable scale of development than the previous application. He added that in this case he did not feel the tipping point had been reached and he did not have the same level of concerns as he had for the previous application, therefore he felt the Committee could not refuse the application.

The Chair asked for Officers to address the points raised by the Committee.

The Senior Planning Officer noted that the whole property as proposed would meet the NDSS requirements, with the applicant stating that it would meet requirements, the objectors saying that it would not. She noted that in terms of Licensing requirements, they were the same for five or six bedroom. In terms of proposed living conditions, it was felt that the proposals were in line with CDP Policy 16 and therefore acceptable in terms of the impact upon amenity.

The Highway Development Manager, Phil Harrison noted that arrangements for parking were the same as if the property was a family home and therefore the same as previously approved when the properties were granted permission. Councillor L Brown asked if there was a date for highway adoption. The Highway Development Manager noted that the Section 38 process was ongoing, and he would speak to the relevant Officers and update Councillor L Brown accordingly.

The Principal Planning Officer, Paul Hopper noted the differences between this application and the previous application, with the previous application being for the increase from six to nine HMO and the current being for the change of use to a six bedroom HMO. He added that should the Committee refuse the application as it failed to accord with the requirements of Policy 16, that it would be challenging to defend that position on upon appeal.

The Chair asked for refusal reasons in relation to the motion put forward by Councillor J Elmer and L Brown. Councillor L Brown noted she felt the application was contrary to DCNP T1, T2, H3 and CDP Policies 21, 29 and 31. The Lawyer (Planning and Highways) asked what specifically was objectionable, which part of the policy was felt to be engaged.

Councillor L Brown noted that parking problems would be elevated in future, contrary to DCNP policies relating to parking, she noted Policy H3 and CDP Policies 29 and 31 related to impact upon residential amenity, noting that while compliant with Policy 16, she had noted the number of complaints from local residents. The Lawyer (Planning and Highways) asked whether it was felt that the application was prejudicial to highway safety or would exacerbate existing issues. Councillor L Brown noted that there were issues of people speeding up, parking especially give the 850 bed PBSA nearby. She noted as regards the Article 4 Direction and that there had been an impact in terms of CV, referring to Facebook pages that gave information on where to park in the Mount Oswald development if going into the city, noting that a lot of students parked in the areas. She added that an additional up to six cars would impact upon the other residents of the area.

The Lawyer (Planning and Highways) noted that was exacerbating existing parking and highway safety issues and added he was not sure that would be a sustainable refusal reason and asked for comment from the Highway Development Manager. The Highway Development Manager noted that issues were currently under the control of the developer and would be for them to address, though once adopted, they would be for the Council to address. He noted DCC standards was for two parking spaces for a five bed property and that the NPPF set a very high bar and therefore he felt refusal on the parking situation would not hold up at appeal as regards one more space. The Lawyer (Planning and Highways) noted that therefore he would advise if Members were to refuse the application they steer away from parking and highway safety and look to other residential amenity impacts. Councillor L Brown noted that it was always possible to see which properties were student properties and asked if housing legislation was against it was not enforced. She asked if it was fair for residents to pay a premium for their homes and to have to live with disruption.

The Chair noted that while there may be problems with existing HMOs, it was more difficult to quantify impact from this property as it was not yet an HMO. Councillor L Brown conceded that this application was slightly different from the last application, however, she had seen so many HMO applications in her Division and many people move out of the area once an HMO is granted next door. The Lawyer (Planning and Highways) noted that amenity impact was subjective and for Members to come to a view upon. He noted that there had to be an assumption that planning and other legislation would work and that a decision on an application should not be on the track record of an applicant or students, rather upon the proposed land use. He noted that simply stating that students would bring a lifestyle and problems would be a difficult reason to sustain at appeal, however, the decision was for the Committee.

The Chair noted the motion for refusal put forward by Councillor J Elmer, seconded by Councillor L Brown and upon a vote being taken, the motion was **LOST**.

Councillor K Shaw noted that reluctantly, as he felt there were no material policy reasons to refuse the application, he would propose the application be approved. He was seconded by Councillor A Surtees, who added she too had struggled to find any material reasons for refusal.

Upon a vote being taken, it was:

RESOLVED

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